



**CYNGOR BWRDEISTREF SIROL
RHONDDA CYNON TAF
COUNTY BOROUGH COUNCIL**

COMMITTEE SUMMONS

C. Hanagan
Service Director of Democratic Services & Communication
Rhondda Cynon Taf County Borough Council
The Pavilions
Cambrian Park
Clydach Vale CF40 2XX

Meeting Contact: Emma Wilkins - Council Business Unit
(Emma.Wilkins@rctcbc.gov.uk)

YOU ARE SUMMONED to a Hybrid meeting of the **STANDARDS COMMITTEE** to be held on **MONDAY, 13TH NOVEMBER, 2023** at **10.00 AM**.

Non Committee Members and Members of the public may request the facility to address the Committee at their meetings on the business listed although facilitation of this request is at the discretion of the Chair. It is kindly asked that such notification is made to Democratic Services by Thursday, 9 November 2023 on the contact details listed above, including stipulating whether the address will be in Welsh or English.

AGENDA

**Page
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1. DECLARATION OF INTEREST

To receive disclosures of personal interest from Members in accordance with the Code of Conduct

Note:

1. Members are requested to identify the item number and subject matter that their interest relates to and signify the nature of the personal interest: and
2. Where Members withdraw from a meeting as a consequence of the disclosure of a prejudicial interest they must notify the Chairman when they leave.

2. MINUTES

To approve as an accurate record, the minutes of the meeting held on the 5th September 2023.

REPORTS OF THE MONITORING OFFICER

3. REVIEW OF THE MEMBER - OFFICER RELATIONS PROTOCOL

To seek Members comments and views on an amended Member - Officer Relations Protocol.

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4. ADJUDICATION PANEL FOR WALES' ANNUAL REPORT 2022-2023

To provide for Members' information a copy of the Adjudication Panel for Wales' Annual Report 2022-2023.

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5. PUBLIC SERVICES OMBUDSMAN FOR WALES - ANNUAL REPORT AND LETTER 2022-2023

To provide Members with a summary of matters pertaining to standards of conduct of County, Town and Community Councillors as set out in the Public Services Ombudsman for Wales' ('PSOW') Annual Report and Annual Letter to this Council for 2022-2023.

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6. PUBLIC SERVICES OMBUDSMAN FOR WALES - SUMMARY OF COMPLAINTS AGAINST MEMBERS - 30TH AUGUST 2023 - 31ST OCTOBER - 2023 AND INVESTIGATION OUTCOMES

For Noting – no complaints received during the reported period.

7. PUBLIC SERVICES OMBUDSMAN FOR WALES - RECENT INVESTIGATION OUTCOMES - 'OUR FINDINGS'

To consider the summary of investigation outcomes concerning alleged breaches of the Members' Code of Conduct as published by the Public Services Ombudsman for Wales (PSOW) on the '[our findings](#)' section of their website for the period 30th August 2023 – 31st October 2023.

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8. APPLICATION FOR DISPENSATION - COUNTY BOROUGH COUNCILLOR M. POWELL

To consider an application for dispensation made in accordance with The Standards Committees (Grant of Dispensations) (Wales) Regulations 2001.

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9. URGENT BUSINESS

To consider any items, which the Chairman, by reason of special circumstances, is of the opinion should be considered at the meeting as a matter of urgency.

Service Director of Democratic Services & Communication

Mae'r ddogfen hon ar gael yn Gymraeg / This document is also available in Welsh

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RHONDDA CYNON TAF COUNCIL STANDARDS COMMITTEE

Minutes of the Hybrid meeting of the Standards Committee held on Tuesday, 5 September 2023 at 10.30 am.

This meeting was live streamed, details of which can be accessed [here](#)

Standards Committee Members in attendance:-

Independent Members in attendance:-

Mr D Bowen (Chair)
Mrs H John.

County Borough Councillor in attendance:-

Councillor A Ellis

Community Councillor in Attendance:

Mr C.A.Thomas

Officers in attendance:-

Mr A Wilkins, Director of Legal Services and Democratic Services (Monitoring Officer)

1 Apologies

Apologies for absence were received from Independent Member J Thomas and County Borough Councillor G Hopkins.

2 Welcome

The Chair welcomed all Members to the Committee and took the opportunity to advise Members that Community Councillor C.A Thomas was now the substantive Community Councillor for the Committee following the resignation of Community Councillor L Law from Hirwaun and Penderyn Community Council. The Chair formally welcomed Community Councillor Thomas and also thanked Community Councillor Law for her valuable input and experiences that she brought to the Committee during her term of office.

3 Declaration of Interest

In accordance with the Council's Code of Conduct, County Borough Councillor A Ellis declared the following personal and prejudicial interest in respect of Agenda Item 5 "I am the Chair of the Community Council referenced in the report and provided evidence in respect of the investigation". The Member advised that she would remain in the meeting due to exemption 12 (3)(a)(ii) of the Code of Conduct but would not comment on the item.

4 Minutes

It was **RESOLVED** to approve the minutes of the 24th April 2023 as an accurate reflection of the meeting.

5 STANDARDS COMMITTEE WORK PROGRAMME

The Monitoring Officer provided Members with the Standards Committee's Work Programme and the proposed items for consideration by the Standards Committee during the Municipal Year 2023-2024.

The Committee were reminded of the Standards Committee's Terms of Reference, which set out the remit of the Committee to monitor, review and advise on matters relating to the Ethical Code, Members Code of Conduct and associated matters of governance and probity.

Members' attention was drawn to Appendix 2 of the report, where the draft Work Programme for the Committee for the Municipal Year 2023-2024 was detailed. The Work Programme sought to reflect the ongoing priorities, standard reports and the frequency of reporting for the Committee's consideration.

Following discussions, the Standards Committee **RESOLVED**:

- i. To approve the Work Programme for the Municipal Year 2023-2024, as set out in Appendix 2 to the report

6 MOCK CODE OF CONDUCT HEARING TRAINING

The Monitoring Officer provided Members with an oral update in respect of the Mock Code of Conduct training that was delivered to Members of RCT and Merthyr Tydfil CBC Standards Committee during July 2023. The Monitoring Officer commented that the feedback following the training had been positive and provided Members with useful insight into the process and considerations if such a hearing was required in the future.

Members of the Committee welcomed the training that was delivered and spoke positively of the knowledge base now obtained following the Mock Hearing. Members spoke of future training opportunities which the Monitoring Officer agreed to provide, as and when appropriate.

Following discussions, the Committee **RESOLVED**

- i. To note the update.

7 PUBLIC SERVICES OMBUDSMAN FOR WALES - SUMMARY OF COMPLAINTS AGAINST MEMBERS AND INVESTIGATION OUTCOME - 1ST APRIL 2023 - 29th AUGUST 2023

The Monitoring Officer provided the Standards Committee with a summary of complaints made against Members and submitted to the Public Services Ombudsman for Wales (the 'Ombudsman') for the period 1st April 2023 – 29th August 2023.

As part of the report, details of the results of two investigations completed by the Ombudsman in relation to alleged breaches of the Code of Conduct at Ynysybwl & Coed-Y-Cwm Community Council were also provided. Members were informed that based on the circumstances of each complaint and Ombudsman findings it was determined not to be in the public interest for any further action to

be taken in relation to the complaints.

It was **RESOLVED**:

- i. To note the contents of the report and provide any comments/feedback on the complaints received by the Ombudsman during the period 1st April 2023 – 29th August 2023;
- ii. To note the summary of two investigations completed by the Ombudsman in relation to alleged breaches of the Code of Conduct, attached at appendices 1 and 2 to the report.

8 PUBLIC SERVICES OMBUDSMAN FOR WALES - RECENT INVESTIGATION OUTCOMES - 'OUR FINDINGS'

The Monitoring Officer provided Members with the summary of investigation outcomes concerning alleged breaches of the Members' Code of Conduct as published by the Public Services Ombudsman for Wales (PSOW) on the 'our findings' section of her website for the period 1st April 2023 – 29th August 2023.

Members were reminded that the PSOW considers complaints that members of Local Authorities in Wales have breached the Code, and were reminded of the four findings the PSOW can arrive at:

- (a) that there is no evidence of breach;
- (b) that no action needs to be taken in respect of the complaint;
- (c) that the matter be referred to the authority's Monitoring Officer for consideration by the Standards Committee;
- (d) that the matter be referred to the President of the Adjudication Panel for Wales (the APW) for adjudication by a tribunal.

Furthermore, it was noted that occasionally an investigation may be discontinued, where circumstances change during the course of an investigation and it is considered that it would not be in the public interest to continue to investigate.

The Monitoring Officer provided a summary of the 3 investigation outcomes to the Committee during the specified period and Members of the Committee commented on the inconsistency of the outcomes noted between each investigation.

Following discussions, it was **RESOLVED**:

- i. To note and consider the contents of the summary of investigation outcomes concerning alleged breaches of the Members' Code of Conduct for the period 1st April – 29th August 2023.

9 ADJUDICATION PANEL FOR WALES - RECENT TRIBUNAL DECISIONS

The Monitoring Officer outlined the report for Members consideration, providing detail of the recent decisions made by the Adjudication Panel for Wales (APW). Members were referred to the appendices of the report, which detailed a number of APW decision notices, that had been issued following the conclusion of the cases.

Members discussed aspects of the decisions taken forward and sought clarification in respect of the disqualification of a Councillor following such decisions and the potential for any re-election, to which the Monitoring Officer

responded.

Following discussions it was **RESOLVED**:

- i. To note the recent decisions made by the Adjudication Panel for Wales (as appended to the report).

10 NATIONAL STANDARDS FORUM - FEEDBACK FROM MEETING HELD ON 30TH JUNE 2023

Members were provided with feedback from the meeting of the National Standards Forum by the Chair and Monitoring Officer, following their attendance at the meeting on the 30th June 2023.

The Chair reminded Members that the Forum looks to help to raise standards across all authorities in Wales, by sharing best practice.

It was **RESOLVED**:

- i. To note the feedback from the meeting of the National Standards Forum held on 30th June 2023.
- ii. To advise the Chair whether there were any items the Committees wishes to put forward as suggestions for consideration by the National Standards Forum at its future meetings

11 ANNUAL REPORT 2022 - 2023

The Monitoring Officer presented for Members comment and agreement the draft Annual Report for the Committee for the 2022 – 2023 Municipal Year, advising Members that the publication of an Annual Report was a form of good practice which the Committee had undertaken over numerous years, and which was now a statutory requirement.

Members of the Committee agreed that the report provided an informative summary of the work of the Committee during the Municipal Year and took the opportunity to thank the Monitoring Office for his advice and guidance to the Committee.

Following discussions it was **RESOLVED**

- i. To adopt the Annual Report for the Standards Committee for the 2022 – 2023 Municipal Year.

This meeting closed at 11.15 am

**Mr D Bowen
CHAIR.**

RHONDA CYNON TAF COUNTY BOROUGH COUNCIL

MUNICIPAL YEAR 2023-2024

STANDARDS COMMITTEE

13 NOVEMBER 2023

REVIEW OF THE COUNCIL'S MEMBER – OFFICER RELATIONS PROTOCOL

REPORT OF THE MONITORING OFFICER

1. PURPOSE OF THE REPORT

- 1.1 To review the Council's Member-Officer Relations Protocol, as annexed at Appendix 1 to this report and consider whether any amendments should be made to that protocol.

2. RECOMMENDATIONS

It is recommended that:

- 2.1 Members review the Council's existing Member - Officer Relations Protocol, attached at Appendix 1 to the report;
- 2.2 Members review examples of other local authority Member-Officer Relations Protocols that have recently been reviewed/amended, attached at Appendices 2A – 2C to the report;
- 2.3 Consider whether any amendments should be made to the Council's Member-Officer Relations Protocol as a result of the reviews proposed in paragraph 2.1 and 2.2 above;
- 2.4 Subject to 2.3 above, should Members identify any proposed amendments to the Member-Officer Relations Protocol agree the Monitoring Officer be tasked with presenting a revised protocol, based on the Committee's recommendations, to the next meeting of the Standards Committee for consideration and review by Members.
- 2.5 To note any revised/amended Member-Officer Relations Protocol would need to be approved by the Full Council following a recommendation from this Committee.

3. BACKGROUND

- 3.1 In 2013 the Council adopted a revised 'Member – Officer Relations Protocol'. As a reminder the Member - Officer Relations Protocol sets out a framework for good working relationships between Members and Officers as the best means of supporting the work of this Council. It explains how the nature of the relationship between elected Councillors and employed officials should work and describes their different but

complementary roles within the Council. It also sets out the behaviours and treatment that each can expect from the other and thereby expands upon the Councillors Code of Conduct. It is only the Ombudsman who has the right to receive complaints made by Officers where Members are in breach of the Members' Code of Conduct itself. The Monitoring Officer will advise the Officer whether in his/her opinion the allegation should be dealt with as a breach of the Member - Officer Relations Protocol or whether it should be referred to the Ombudsman as an allegation of breach of the Members' Code of Conduct.

- 3.2 The Member/Officer protocol is an adjunct to the Councillors' Code of Conduct and is an important contributor to the working culture within the Council. It sets out:
- the differing roles of members and officers and what they can expect from each other;
 - further explanation and guidance on appropriate behaviours;
 - mechanisms for handling concerns or problems within the relationship.
- 3.3 An alleged breach of the Protocol cannot be directly enforced in the same way as an alleged breach of the Code of Conduct. However, the document will inform any investigation by the Public Services Ombudsman for Wales.
- 3.4 The procedures to be followed for dealing with complaints made against Members under the Member – Officer Relations Protocol are those procedures adopted by the Council in relation to complaints made under the Local Resolution Protocol unless a complaint is formally made with the Public Services Ombudsman for Wales.
- 3.5 The current Member-Officer Relations Protocol is attached at Appendix 1 to the report.

4. REVIEW OF MEMBER – OFFICER RELATIONS PROTOCOL

- 4.1 The protocol is due for review as part of the Committee's rolling work programme and therefore Officers have reviewed other local authorities protocols for comparisons and considered what other updates may be appropriate or necessary since the last review in 2013.
- 4.2 Members are requested to review the existing Member-Officer Relations Protocol and consider whether any amendments should be made and recommended to full Council for adoption.
- 4.3 To aid Members consideration, attached at Appendix 2 to the report are examples of Member-Officer Relations Protocols which have been relatively recently reviewed by the relevant local authority, namely Flintshire County Council (Appendix 2A), Cardiff County Council (Appendix 2B) and Monmouthshire County Council (Appendix 2C).

- 4.4 Members are asked to review those protocols and consider whether to propose any amendments to the Member-Officer Relations Protocol.
- 4.5 Should Members identify any proposed amendments to the Member-Officer Relations Protocol it is suggested the Monitoring Officer be tasked with presenting a revised protocol, based on the Committee's recommendations, to the next meeting of the Standards Committee for consideration and review by Members.
- 4.6 Any revised/amended Member-Officer Relations Protocol would need to be approved by the Full Council following a recommendation from this Committee.

5. LEGAL IMPLICATIONS

- 5.1 There are no specific legal implications arising from this report however both Members and Officers are subject to the respective adopted Codes of Conduct of the Council and in the case of officers its disciplinary policies and employment rules.

5. CONSULTATION

- 5.1 The Standards Committee is being consulted on any proposed amendments to the Member-Officer Relations Protocol prior to any suggested amendments being considered at a meeting of Full Council. It is suggested it might be beneficial for any amendments to also be presented to the Council's Democratic Services Committee for any comment in advance of that presentation to Council.

6. EQUALITY AND DIVERSITY IMPLICATIONS

- 6.1 There are no specific equality and diversity implications arising from this report however both Officers and Members must conduct themselves in accordance with the provisions of the Equality Act 2010 applicable to a Local Authority in Wales.

7. FINANCIAL AND RESOURCE IMPLICATIONS

- 7.1 There are no financial implications arising from this report.

LOCAL GOVERNMENT ACT 1972
AS AMENDED BY
THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985
RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL
STANDARDS COMMITTEE
13 NOVEMBER 2023

REPORT OF THE MONITORING OFFICER

Background Papers: Member – Officer Relations Protocol

MEMBER - OFFICER RELATIONS PROTOCOL

1. Underlying Principles

- 1.1 The Local Government Act 2000 set up an Ethical Framework for Local Government introducing a Statutory Code of Conduct for Members and requiring the appointment of a Standards Committee to promote and maintain high standards of conduct.
- 1.2 The Members' Code of Conduct sets out in general terms aspects of conduct which Members must observe in carrying out official duties and which have direct relevance to relations between Members and between Members and Officers.
- 1.3 This Protocol sets up a framework for good working relationships between Members and Officers with regards to their respective roles, as set out below and in the Council's Constitution, as the best means of supporting the work of this Council.
- 1.4 The Protocol seeks to set out not only current practices and conventions but also aims to promote clarity and certainty on dealing with other issues.
- 1.5 The Protocol will also reflect the principles underlying the respective Codes of Conduct which apply to Members and Officers so that together they enhance and maintain the integrity of the Council and its public reputation.

2. Member - Officer Relations

- 2.1 Both Members and Officers serve the public but their roles and responsibilities differ. Members represent their constituents and the wider public. Officers are responsible to the Council and must give advice to Members and the Council and carry out the Council's work under the direction and control of the Council, the Cabinet and its Committees and sub-Committees.
- 2.2 The relationship between Officers and Members should be characterised by mutual respect which is essential to good local government.
- 2.3 Members can expect from Officers:-

- Commitment to the Council as a whole and not only to one part
- Respect and courtesy
- The highest standards of integrity
- Timely responses to enquiries and complaints
- Impartial, professional advice
- Regular up to date information that can be considered appropriate and relevant to their needs having regard to any individual responsibilities that they have and positions that they hold
- Awareness of and sensitivity of the political environment
- Appropriate confidentiality
- Support for the role of Members within the arrangements made by the Council

- That they will not use their relationship with Members to seek to advance their personal interests or to influence decisions improperly
- Compliance with this Protocol at all times
- Compliance with the Officers' Code of Conduct
- Compliance with relevant Equalities legislation

2.4 Officers can expect from Members:-

- Respect and courtesy
- The highest standards of integrity
- An understanding of and support for respective roles, work loads and pressures
- That they will not raise matters relating to the conduct or capability of an Officer, or of the employees collectively, at meetings held in public or in the Press. Employees have no means of responding to criticism like this in public.
- That they will not require Officers to change their professional advice nor take any action which an Officer considers unlawful or illegal or which would amount to maladministration or breach of a statutory code of conduct
- Leadership
- Not to be subject to bullying or discrimination or to be put under undue pressure
- That they will not use their relationship with Officers to seek to advance their personal interests or those of others or to influence decisions improperly
- Recognise and pay due regard to their role as an employer in their dealings with Officers
- Compliance with the Members' Code of Conduct
- Compliance with this Protocol at all times
- Compliance with relevant Equalities legislation

2.5 Close personal familiarity between individual Members and Officers can damage professional relationships and prove embarrassing to other Members and Officers. Situations should be avoided that could give rise to suspicion and any appearance of improper conduct. This includes excessive socialising between Members and Officers.

2.6 Any act against an individual Officer may be regarded as a form of bullying, intimidation or harassment if it is intended to influence unfairly that person's actions, thoughts or deeds. Whilst this Protocol cannot give guidance on every situation where such behaviour may occur, the Council is committed to promoting professional and courteous working relationships between individuals.

2.7 Members should consult with the Monitoring Officer and the Chief Finance Officer about legality, maladministration, financial impropriety and probity or where they have any doubt as to whether the particular decisions were or are likely to be contrary to the policy framework or budget.

2.8 In seeking advice and support Members should have due regard to the seniority

of the Officer with whom they are dealing and the fact that, while those Officers owe duties to the Council as their employer such duties are first expressed to their respective manager and the Chief Executive and not to any individual Member. For this reason Members should not give direct instructions to staff unless authorised so to do by the Constitution. If so authorised instructions shall be given to the relevant Chief Officer rather than a more junior member of staff.

- 2.9 All dealings between Members and Officers should observe reasonable standards of courtesy and neither party should seek to take advantage of their position.
- 2.10 If there are any occasions where Members may have reason to complain about the conduct or performance of an Officer, all such complaints should be made personally, either to the Chief Executive or Monitoring Officer as appropriate and in the case of the Chief Executive to the Monitoring officer. It is particularly important that such complaints are made in this way and are not aired in public such as at a meeting of the Council, to other external bodies or members of the public or in the Press.
- 2.11 Similarly, if there is concern by an Officer in relation to a Member's conduct, all such concerns should initially be brought personally by the relevant Chief Officer to the attention of the Chief Executive or in his/her absence to the Monitoring Officer.
- 2.12 All Members have the same right and obligations in their relationship with Officers and should be treated equally. However, Members of the Executive and Chairs of Committees have additional responsibilities and their relationship with Officers may be different and more complex from those of Members without those responsibilities and this is recognised in the expectations they are entitled to have of Officers. Also, where a political group forms an administration either alone or in partnership with another group or groups, it is recognised that the relationship with Officers, particularly those at a senior level, will differ from that with opposition groups.

3. The Role of Officers

- 3.1 To initiate and to implement the policies set and the decisions made by Members.
- 3.2 To provide professional and technical advice to Members.
- 3.3 To carry out those functions delegated to Officers.
- 3.4 To provide reasonable help, support and advice to all Members.
- 3.5 To represent the Council on outside bodies.
- 3.6 To act in a specific capacity listed below where appointed so to do by the Council:

The Head of Paid Service (Chief Executive) (as defined by the Local Government and Housing Act 1989 section 4) has the following functions and

duties:

to prepare proposals for the consideration of the Council as to the co-ordination of the discharge of the Council's functions; the number and grades of staff that are required to discharge those functions; the organisation of the Council's staff; and the appointment and proper management of the Council's staff.

The Monitoring Officer (Director of Legal Services) (as defined by the Local Government and Housing Act 1989 section 5) has the following functions and duties:

to prepare reports for the consideration of the Council where it appears to him that any proposal, decision or omission by the Council, a Committee, Sub-Committee, or Officer has given rise or is likely to give rise to a contravention of any statute or maladministration or injustice as mentioned in Part III of the Local Government Act 1974.

The Chief Financial Officer (Director of Finance & Digital Services) (as defined by the Local Government Act 1972 section 151) has the following functions and duties:

to prepare reports for the consideration of the Council where it appears to him that any Committee, Sub-Committee, or Officer has or is about to make a decision which involves or would involve the Council incurring expenditure which is unlawful; or has taken or is about to take a course of action which, if pursued to its conclusion, would be unlawful and is likely to cause a loss or deficiency to the Council; or is about to enter an item of account, the entry of which would be unlawful.

4. The Role of Members

- 4.1 To promote the social, economic and environmental well being of the community.
- 4.2 Collectively be the ultimate policy makers and decision makers and carry out a number of strategic and corporate functions.
- 4.3 Represent their communities and bring their views into the Council's decision-making process, i.e. become the advocate of and for their communities.
- 4.4 Deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances.
- 4.5 Balance different interests identified within the electoral division and represent the ward as a whole.
- 4.6 Be involved in decision making.
- 4.7 Be available to represent the Council on other bodies.
- 4.8 To promote the highest standards of conduct and ethics and to treat each other with courtesy and respect.
- 4.9 To act collectively as the employer of the staff.
- 4.10 To act in a specific capacity listed below where appointed so to do by the Council in accordance with the Constitution:

- Chair of the Council
- Leader of the Executive
- Executive Member
- Portfolio Holder (with or without delegated authority)
- Chair of the Scrutiny Committee
- Member of the Scrutiny Committee
- Chair of a Committee other than Scrutiny
- Member of a Committee other than Scrutiny
- Representing the Council on Outside Bodies

Rights and Duties of Individual Members

4.11 All Members have the right:-

- To inspect documents in the possession or control of the Council as set out in the Council's Constitution
- To attend Committee, Sub Committee, Joint Committee, training sessions and such meetings as are necessary for the proper performance of that Member's duties
- To see accounts and make copies before the Annual Audit to inspect specific books, contracts, bills etc
- To receive approved allowances

4.12 There are also duties on individual Members to:-

- Abide by the Members Code of Conduct and this Protocol
- To disclose personal and prejudicial interests as set out in the Code of Conduct
- To register the receipt of any gifts and hospitality at levels determined by the Council
- To use all reasonable endeavours to attend meetings of the Council, its Committees, sub-Committees, other events and any outside bodies to which they have been appointed and to give apologies [with reason] where appropriate on those occasions where the Member is unable to attend
- To attend and participate in opportunities for training and development including policy development
- To take into account advice provided by the Chief Executive, the Monitoring Officer or Officers of the Council.

5. Members in their role as Local Members

5.1 When acting in their electoral ward role Members:

- need to be mindful of their competing roles, i.e. acting for the Council and acting for constituents, and the possible conflicts of interest that can arise and the pressure this can bring on Officer time; and

- recognise the Officer's right to suggest that senior Officers, the Executive (Council) or a Committee should authorise additional work requested by individual Members.

6. The Relationship between the Overview and Scrutiny Committees and Officers (when executive decisions are being scrutinised)

- 6.1 The Council's Overview and Scrutiny Committees shall seek the advice of the Monitoring Officer where they consider there is doubt about the legality of Executive decisions or the Monitoring Officer and other appropriate Officers where they consider a decision of the Executive might be contrary to the policy framework.
- 6.2 When considering calling Officers to give evidence the Committee shall not normally, without the consent of the relevant Chief Officer, request the attendance of a junior Officer to ensure that such Officers are not put under undue pressure.
- 6.3 When asking Officers to give evidence before the Committee questions should be confined, so far as possible, to questions of fact and explanation and professional opinion relating to policies and decisions.
- 6.4 Where they consider it appropriate the Committee may ask Officers to explain advice given to Members (of the Executive) prior to decisions being taken and explain decisions they themselves have taken under the Scheme of Delegation.
- 6.5 The Committee shall not question Officers in such a manner whereby the nature and frequency of the questions or tone or language used could be considered by a reasonable person to be harassment, discriminatory or otherwise unacceptable nor deal with matters which are of a possible disciplinary/capability nature.
- 6.6 The Committee shall, at all times respect the political impartiality of the Officers and must not expect Officers to give a political view.

Officer Relationships with Party Groups

- 6.7 It must be recognised by all Officers and Members that in discharging their duties Officers serve the Council as a whole and not exclusively any political group, combination of groups, or any individual Members.
- 6.8 Officers may properly be called upon to support and contribute to the deliberations of political groups but must at all times maintain political neutrality. All Officers must, in their dealings with political groups and individual Members, treat them in a fair and even handed manner.
- 6.9 The support provided by Officers can take many forms, ranging from a briefing with the Leader of the Executive, the Leaders of other political groups, or Chairs of Committees, to a presentation to a full party group meeting.
- 6.10 Any request for advice given to a political group or Member will be treated with strict confidence by the Officers concerned and will not be accessible to any other political groups. Factual information upon which any advice is based will, if requested, be available to all political groups.
- 6.11 When attendance is requested for political group meetings:
- 6.11.1 the request to attend a group meeting must be made through the Chief

Executive;

- 6.11.2 Officers will not attend party group meetings which include persons who are not Members of the Council or be present at purely party political discussions;
- 6.11.3 such a request can only be made in relation to Council business;
- 6.11.4 Officers must respect the confidentiality of any party group discussions at which they are present.

7. Confidentiality and the Press

- 7.1 Any Council information provided to a Member in his/her capacity as a Member must only be used by the Member in connection with the proper performance of their duties. Confidential information should not be disclosed to the media, discussed or released to any other persons. Members should not disclose or use confidential information for the personal advantage of themselves or anyone known to them or to the disadvantage or the discredit of the Council or anyone else.
- 7.2 Officers and Members have a responsibility to protect the Council's reputation. Leaking of confidential information including exempt agenda items and minutes to the media or public criticism of individual Officers by Members or of individual Members by Officers is unacceptable. There are clear requirements set out both in the Members' Code of Conduct and in the Officer Code of Conduct regarding confidentiality.
- 7.3 Duties of confidentiality (under common law) arise when one person (the 'confident') is provided with information by another (the 'confider') either orally or in writing in the expectation that the information will only be used or disclosed in accordance with the wishes of the confider.

Examples of this duty are;-

- if the relationship is inherently confidential e.g. lawyer and client
 - If the relationship is personal e.g. between colleagues in circumstances that suggest an expectation of confidentiality
 - If there is risk through identification e.g. whistle blowers
- 7.4 The fact that information is not marked 'confidential' does not necessarily prevent it from being confidential as this may be inferred from the subject matter and the surrounding circumstances. Confidentiality is unlikely to be established where the information is already known to a wide circle or is in the public domain. Wherever possible, officers and Members should clearly indicate in correspondence or verbally when they expect information to remain confidential to avoid confusion.
 - 7.5 Whilst this Protocol is not aimed in any way at restricting a Member's freedom of speech or right to contact the media, Members must distinguish between acceptable levels of political debate and unacceptable or derogatory personal comments or remarks when they comment on particular issues. Comments to the Press should not challenge the integrity and good faith of other Members or

be based on inaccurate information offered without due regard or attempt to establish the facts.

8. Correspondence and E mails

- 8.1 All correspondence, including Emails between an individual Member and an Officer should not normally be copied (by the Officer) to any other Member. Where it is necessary to copy the correspondence to another Member this should be made clear to the original Member, before any correspondence is sent.
- 8.2 Correspondence including emails between an individual Member and an Officer should not routinely be copied by the Member to the media. Officers other than the Press and Communications Team should not contact the Press (unless authorised to do so) and should comply with the requirements of the Officers' Code of Conduct.
- 8.3 Local government should promote openness and transparency so information should not be disseminated secretly. E mails by and from Members should not be blind copied, without acknowledging to whom the e-mail has been copied.
- 8.4 Members who do not use the Council's IT equipment will nevertheless comply with the Council's ICT Security Policy, and this Protocol.

9. Use of Social Media

- 9.1 Members and Officers must use social media (facebook, twitter, blogs etc) responsibly and in accordance with both the law and Members' and Officers' Codes of Conduct. Care must be taken not to disclose confidential information, particularly personal data relating to third parties, which is protected by Data Protection Legislation.

10. Attendance by Members at meetings arranged by Officers

- 10.1 Members are free to meet Officers to discuss aspects of the Council's business, bearing in mind the reasonable calls of their other duties.
- 10.2 Officers will arrange many meetings with colleagues or third parties to discharge the routine business of the Council or to action its decisions. The convention is that Members will not be present at these meetings but will be advised either informally or through reports to Cabinet and Committees of any relevant discussions and/or outcomes. There may be occasions where a Member may be invited to attend a meeting by the appropriate Officer or by a resolution of a Committee.
- 10.3 Members may request meetings with Officers and bring third parties to that meeting where appropriate.

11. Breaches of this Protocol

- 11.1 Allegations by an Officer of a specific breach of this Protocol by a Member should be made to the Monitoring Officer. It is hoped that any potential problems may be resolved by early discussion between the Members involved and the Monitoring Officer. If this proves impossible the Monitoring Officer may, in consultation with the Chair of the Standards Committee refer the matter to the Standards Committee and invite them to reach a view as to whether the Protocol has been breached. The view of the Standards Committee will be reported at a Council meeting. The Standards Committee will follow the Council's Local Protocol resolution procedures (suitably adapted) for dealing with any complaints made against Members under this Protocol.
- 11.2 The Chief Executive will decide whether disciplinary procedures are appropriate in the case of alleged breach of this Protocol by Officers.
- 11.3 Allegations by a Member of a specific breach of this protocol by another Member will be dealt with in accordance with the Council's Local Protocol resolution procedures (suitably adapted).

12. Training and Briefing

- 12.1 Training and briefing for the operation of this Protocol for Members and Officers will be arranged as required and overseen by the Standards Committee.

13. Advice

- 13.1 The Council's Monitoring Officer and Deputy Monitoring Officer will give advice on the interpretation and operation of this Protocol.

14. Review

- 14.1 The operation of this Protocol will be regularly monitored and reviewed by the Standards Committee with particular reference to findings on breaches, and recommendations made to Council for amendment where necessary.

SECTION 25

25. PROTOCOL ON MEMBER/OFFICER RELATIONS

1.0 Introduction

1.1 Effective local governance and community leadership depends on good working relationships between Members and Officers.

1.2 This Protocol provides guidance for Members (which includes co-opted members) and Officers in their working relations with each other. The Protocol covers the more common working situations, but is not comprehensive. The principles underlying it may be applicable to other situations.

1.3 This Protocol applies only to working relations between Members in their role as Members and Officers in their capacity as Officers.

2.0 Working Relations

2.1 Members and Officers shall establish sound and effective working relations that engender mutual respect and put aside any personal differences.

2.2 Members will comply with the Members' Code of Conduct and Officers with the Officers' Code of Conduct.

2.3 The National Conditions of Service for Staff in Local Government provide:
"The public is entitled to demand, of a local government Officer, conduct of the highest standard".

2.4 Members and Officers must recognise their different roles, needs and objectives. They must be ready to discuss positively how working relations between each other can most effectively be developed (which is normally undertaken by discussion following elections and periodically thereafter). Members and Officers must set aside any personal differences in the interests of maintaining effective working relations.

2.5 It is important that Officers develop political awareness of issues that are sensitive to the individual political groups represented on the Council.

3.0 Roles of Members and Officers

3.1 The respective roles of Members and Officers can be summarised as follows:-
Members and Officers are servants to the public and they are indispensable to one another. Their responsibilities are distinct. Members are responsible to the electorate and set policy and direction. They can help to guide implementation of policy (especially Cabinet Members) but typically do not get involved in decisions on specific cases. Officers are responsible to the Council. An Officer's job is to give advice to the Council and to carry out the Council's work under the direction and control of the Council, the Cabinet and relevant committees. Senior Officers will help Members to develop policy.

3.2 Members have four main areas of responsibility:-

- Contributing to determining the policy of the Council and giving it leadership;

- Monitoring and reviewing the performance of the Council in implementing that policy and delivering services;
- Representing the Council in their local areas and externally;
- Acting as advocates on behalf of their constituents.

3.3 An Officer's role is:-

- To give advice and information to all Members on an impartial basis;
- To help Members formulate policies; and
- To implement policies determined by the authority, provided the policies are within the law.
- In all advice, including reports, it is the responsibility of the Officer to express his/her own professional advice in an objective manner and make recommendations based on this.

3.4 Through performance appraisal, target setting and day to day management, Officers receive guidance and direction from their Line Managers. Members are not authorised to ask Officers to undertake specific tasks other than:-

- Through the formal decision-making process (Council, Cabinet, Committees etc);
- To request the provision of consumable resources provided by the Council for the use of Members;
- Where staff have been specifically allocated to give support to a Member, a group of Members, or all Members.

4.0 Expectations

4.1 Members can expect from Officers:-

- a) A commitment to the Council as a whole and not to any political group.
- b) A working partnership.
- c) An understanding of and support for respective roles, workloads and the differing pressures.
- d) Timely response to enquiries and complaints in accordance with the agreed procedure for handling member queries.
- e) Clear, objective advice, not influenced by political views or preference, which does not compromise the political neutrality of Officers.
- f) Regular, up-to-date information on matters that can reasonably be considered appropriate and relevant to their needs, having regard to any individual responsibilities that they have and positions that they hold.
- g) Awareness of and sensitivity to the political environment.
- h) Respect, courtesy and dignified behaviour appropriate to the occasion.
- i) Training and development in order to carry out their role effectively.
- j) A high level of integrity and confidentiality, appropriate to the situation.
- k) Not to have Officers' personal issues raised with them outside the agreed procedures.
- l) That they will not attempt to influence improperly any Member to advance Officers' personal interests or influence improperly a decision
- m) At all times compliance with the Code of Conduct for Officers
- n) Support for the role of Members as the local representatives of the Council, within any scheme of support for Members` , which may be approved by the authority.

4.2 Officers can expect from Members:

- a) A working partnership.
- b) An understanding of and support for respective roles, workloads and differing pressures.
- c) Leadership and direction.
- d) Respect for their advice and as a person, courtesy and dignified behaviour appropriate to the occasion as set out within the Flintshire Standard.
- e) A high level of integrity and confidentiality appropriate to the situation.
- f) Not to be subject to bullying or to be put under undue pressure to accord with a Member's wishes.
- g) Not to use their position or relationship with Officers improperly to advance their personal interests, or those of others, or to improperly influence decisions.
- h) That Members will at all times comply with the Council's Code of Conduct.
- i) Appropriate scrutiny of decisions that focuses on objective measures of performance and outcomes
- j) Respect for differing working hours and working patterns with appropriate time being allowed for responding to queries and concerns as set out in the agreed procedure

5.0 Courtesy

5.1 Mutual respect between Members and Officers is essential, it is important that any dealings between the parties should observe the highest standards of behaviour and courtesy towards each other and will not take or attempt to take unfair advantage of their position.

5.2 Members and Officers should have regard to the formality of the occasion as to the mode of address they choose to adopt. In particular, in formally convened meetings and/or meetings open to the public a formal mode of address should be adopted. In all other cases Members and Officers will respect preferred modes of address.

5.3 The behaviours expected are set out in more detail within the Flintshire Standard which also includes a mechanism for informally resolving disputes between members and Officers.

6 Officers Giving Advice and Information to Political Groups

6.1 There is statutory recognition for political groups. It is common practice for such groups to give preliminary consideration to matters of Council business in advance of them being considered at Council, Cabinet or Committee, though for some committees (such as Planning Committee and Overview and Scrutiny Committees) it is not appropriate to apply a "political whip". Officers may properly be called upon to support and contribute to such deliberations by political groups.

6.2 The support provided by Officers can take many forms, ranging from a briefing meeting with a Chairperson or Spokesperson prior to a Committee meeting, to a presentation to a full political group meeting. Whilst in practice such Officer support is likely to be in most demand from whichever political group is for the time being in control of the Council, such support is available to all political groups.

6.3 Certain points must, however, be clearly understood by all those participating in this type of process, Members and Officers alike. In particular:

- (a) Officer support in these circumstances must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of political group business. The observance of this distinction will be assisted if Officers are not expected to be present at meetings, or parts of meetings, when matters of political group business are to be discussed;
- (b) Political group meetings, whilst they form part of the preliminaries to Council decision making, are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not, therefore, rank as Council decisions and it is essential that they are not interpreted or acted upon as such; and
- (c) Similarly, where Officers provide information and advice to a political group meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the County Council or the relevant Committee or Sub-Committee when the matter in question is considered.

6.4 Special care needs to be exercised whenever Officers are involved in providing information and advice to a political group meeting which includes persons who are not members of the Council. Such persons will not be bound by the National Code of Local Government Conduct (in particular, the provisions concerning the declaration of interests and confidentiality) and for this and other reasons Officers may not be able to provide the same level of information and advice as they would to a Members only meeting.

6.5 Officers must respect the confidentiality of any political group discussions at which they are present in the sense that they should not relay the content of any such discussions to another political group.

6.6 Any particular cases of difficulty or uncertainty in this area of Officer advice to political groups should be raised with the Chief Executive who will discuss them with the relevant Group Leader(s).

7.0 Support Services to Members

7.1 Members will use support services and resources provided by the Council only for Council business. Support services shall not be used for political or campaigning activity, or for private purposes.

7.2 The Council provides support services to members (including stationery, IT facilities, printing, photo-copying, travel, transport and parking arrangement, etc.) to assist members in discharging their role as Members of the Council.

7.3 Support services are provided to by the Members' Services Section of the Governance Portfolio. Individual Services may, in addition, provide support services to a Cabinet Member with Portfolio, Lead Members, Chairs of Scrutiny Committees and Panel Chairs.

8.0 Communications and Meetings

8.1 Members and Officers will not, without the agreement of the author, copy a communication, whether physical or electronic, from a member of the public (including MPs, AMs or MEPs) or Member to another Member or to any other third party. This is not intended to restrict the normal sharing of correspondence by Officers with each other and their managers in order to respond to and handle that communication.

8.2 Most correspondence between Officers or from Officers to Members will be open and may be copied as a part of the normal arrangements for dealing with the matter within it. Members and Officers may from time to time raise matters confidentially with each other and such confidences shall be respected.

8.3 It may be necessary or appropriate for an Officer to discuss the content of a confidential communication with a Member, particularly where political consultation is required before action is taken under Officer delegated powers. In these circumstances, the communication should not be copied or shown to another Member or the identity of the author revealed without the express permission of that author.

8.4 Official communications on behalf of the Council should be sent in the name of the appropriate Officer, rather than in the name of a Member. It may be appropriate in certain circumstances (e.g. representations to a Government Minister or Assembly Secretary) for a communication to appear in the name of a Member, but this should be the exception rather than the norm. Communications which, for example, create obligations or give instructions on behalf of the Council should never be sent out in the name of a Member.

8.5 Members and Officers need to meet or speak to discuss Council business. Officers will often keep a written note of such meetings as an aide memoire. Sometimes a more formal note of the discussion will be prepared such as a confirmatory email or minutes. Such record keeping is to be expected, and is normally taken to be agreed. Covert recording of meetings or conversations should not take place.

9.0 Specific Member/Officer Working Relations

9.1 Members and Officers will not allow a working relationship to become so close or appear to be so close as to bring into question the Officer's ability to deal impartially with other members, political groups and other Officers. Where a member and an Officer have a close relationship (whether familial, social, business, emotional etc) its existence must be declared, through the relevant process for declaring interests, so that appropriate steps can be taken to ensure that the relationship does not

- impinge upon the functioning of the Council or the exercise of council functions
- undermine or circumvent procedural safeguards
- impact upon the Council's reputation

9.2 Cabinet members with Portfolios, Lead Members and other appropriate members will routinely be consulted by Officers, prior to making decisions under delegated powers.

9.3 The Cabinet Member and/or the Chair and/or the Vice-Chair of the Committee or Panel will be consulted as a part of the agenda preparation for meetings.

9.4 Officers having delegated decision-making Authority are entitled, where considered expedient, to refer a matter to the Cabinet Committee or appropriate Sub-Committee for decision. Officers of Cabinet Management are responsible for the contents of all reports submitted in their name.

9.5 Members must acknowledge that Officers within a department are accountable to their Chief Officer. Officers should always be prepared to assist Members, but they cannot go

beyond the bounds of the Authority given to them by their Chief Officer and they must not be asked to do so. Members must also recognise that Officers are bound by professional standards, codes of conduct or professional ethics and they should not be asked to go outside of the bounds set in such codes.

10.0 Involvement of Ward Councillors

10.1 Ward Members will be invited to attend any public meeting organised by the Council which relates to issues affecting their ward.

10.2 Ward Members must be appraised of local issues affecting their ward and involved in any public meeting or consultation exercise. They must be notified, at the outset, of any consultation on a local issue affecting their ward.

10.3 It is the responsibility of a member who invites an Officer to a public meeting, or who is present at a public meeting to which an Officer has been invited by others, to ensure that the Officer is treated with appropriate levels of courtesy and respect by those at the meeting.

11.0 Members' Access to Information and to Council Documents

11.1 Members have legal rights to access information and Council documents that go beyond the rights enjoyed by members of the public. The law relating to Member's rights to information is complex and includes common law and statutory rights. The Council has agreed procedures for what information will be shared with Members. If at any time a Member believes access to information or Council documents is being denied contrary to the Member's legal rights the issue should be raised with the Monitoring Officer or a member of the Legal Service.

12.0 Confidentiality of Reports and Correspondence

12.1 All Chief Officers have a duty to satisfy themselves that Committee reports to which they are signatories are only classified as 'exempt information' when the statutory criteria for confidentiality are met. The Chief Executive and the Chief Officer, Governance have an overriding responsibility to determine this compliance.

12.2 Once a report has been issued within Part II of the agenda for a meeting and until a Committee decides that it should be discussed in public, Members and Officers must respect the confidentiality of the report and not disclose it to a third party.

12.3 It does not, however, follow that all the contents of the report must be regarded as secret. It may only be certain items of information or terms of negotiations that justify the inclusion of that report within Part II; other aspects may already be within the public domain or otherwise outside the definition of 'exempt'. A Member may accordingly refer to these aspects in discussions with third parties but must exercise proper care and judgement not to reveal those elements of the paper which are protected but it will always be prudent for that Member to consult the Chief Officer, Governance before doing so.

13.0 Access to Council Premises

13.1 All Members of the Council shall be entitled to use, and have access to, any Council building or premises, when that building or the premises are open, as follows:

- a) anywhere which is open to the public;
- b) the Council Chamber and Committee Rooms for the purposes of attending and/or observing scheduled meetings of the Council, its Committees and Sub-Committees,

Fora and the Cabinet (subject to any restrictions set out in the Access to Information Procedure Rules) or any public meeting held in those rooms by any other agency or body.

- c) areas set aside for the use of Members as a whole (such as the Members' Services Suite), as a group (such as group rooms), or as an individual (such as the Leader's office, Chair's parlour etc)
- d) any room to which the Member has been invited for a meeting by an Officer.
- e) the canteen

13.02 Such access is to be used for Council purposes and fulfilling the Member's role and responsibilities within the Council only. Members, when they are not acting in pursuit of their roles and duties as a Member, have no greater rights of access to Council buildings and premises than members of the public.

13.3 There is a general presumption that Members will not require access to Council buildings outside of the hours 7.30 am to 7.00 pm except for scheduled or public meetings referred to in 13.1 above. In exceptional circumstances where a Member remains in the building beyond 7.00 pm, he/she must inform security of his/her presence and location and give an indication as to how long he/she intends to stay.

13.4 Where individual Groups have been allotted rooms for their sole use ("group rooms"), Members of that group shall be entitled to have access to the group room subject to any reasonable restrictions which that Group may wish to place upon access from time to time.

13.05 Members shall not be entitled to enter certain restricted sensitive areas including the central computer suite, benefits service (including the corridor on that part of the ground floor on Phase 2), payroll, and child protection unless by invitation of the Chief Officer or a duly authorised Officer in exceptional circumstances.

13.06 Subject to 13.01 and 13.05 above, Members will not be entitled to enter other areas in Council buildings so as to preserve the physical security of personal data under GDPR and so as to respect the fact that they are workplaces where Officers are expected to be concentrating on their duties. Members may enter such areas following express invitation to attend a meeting with an Officer, or to arrange a meeting with an Officer. When seeking meetings, Members will endeavour to make appointments with Officers in advance giving them sufficient time to research the matter to be discussed. A suitable venue for the proposed meeting will be arranged at that time.

13.07 In situations where Members and Officers inadvertently meet in the course of their business there should be no expectation on the part of the Member that the Officer will deal with any issue that the Member wishes to raise, unless both agree that it is an urgent issue which cannot wait for a formal appointment to be arranged.

14.0 Criticism of Members and Officers

14.1 As employer, the Council has a duty to provide and maintain a working environment which is reasonably tolerable to all employees and to protect them from unacceptable treatment and behaviour and unauthorised interference in work duties. All Members must ensure they discharge their duties as employer fairly and impartially and not do anything to

undermine the relationship of mutual trust and confidence which must exist between the Council and its employees.

14.2 No public comment will be made on ongoing disciplinary proceedings as it could prejudice their outcome or breach the confidentiality that employees are entitled to expect in relations to such matters.

15.0 Political Group Leaders and the Chief Executive

15.1 The Political Group Leaders and the Chief Executive will develop and conduct appropriate working relations.

15.2 Regular Briefing arrangements between the Political Group Leaders and the Chief Executive are an essential part of the democratic machinery of the Council. It is important that the Chief Executive, as Head of the Paid Service, is accessible by all political groups represented on the Council through their respective Leaders.

16.0 Issues regarding Working Relations between Members and Officers

16.1 Members and Officers will seek to resolve any issues arising within their working relations. In the first instance this will be done by the relevant Member and Officer.

16.2 Where a Member and an Officer are unable to resolve any such issue then the:

- Member's Group Leader; and/or
- Officer's line manager and/or Chief Officer

may be involved.

16.3 The relevant Political Group Leader and the Chief Executive will seek to resolve by mediation and conciliation any unresolved problem or breakdown in working relationships between Members and Officers.

17.0 Review

17.1 This Protocol will be reviewed from time to time.

PART 5 – CODES AND PROTOCOLS

PROTOCOL ON MEMBER/OFFICER RELATIONS

Basic Principles

- 1 The basic principle of good Member/officer relations in local government is trust, mutual respect and a common understanding of respective roles. Councillors are elected to represent the whole community and officers are appointed by the Council to give creative, robust and impartial advice, which will assist Members in reaching the best decisions for that community.
- 2 The Council's Code of Conduct for Members says that they should "show respect and consideration for others" and "must not do anything which compromises, or which is likely to compromise, the impartiality of the Authority's employees".
- 3 The Code of Conduct for Local Government Employees says that "Mutual respect between qualifying employees and Members is essential to good local government, and working relationships should be kept on a professional basis. Qualifying employees of Cardiff Council should deal with the public, Members and other employees sympathetically, efficiently and without bias."

Councillors' Roles

- 4 All councillors have a responsibility to fulfil representational and constituency roles in respect of their electoral divisions. They also have responsibilities as members of the full Council to take some of the most important decisions the Council can make, including approval of the budget and policy framework. Many will be involved in taking other more detailed Council decisions, particularly within the planning and licensing areas, and others will have responsibility for maintaining an overview and scrutiny of Executive Decisions and the efficient performance of Council functions. A relatively small group of councillors will be members of the Cabinet, which will undertake most of the Council's functions.
- 5 All of these roles will relate in slightly different ways to the officers of the Council. These are set out in more detail below.

Officer Roles and Advice

- 6 Council officers are employees of the whole Council and have an obligation to give impartial advice and to carry out the Council's lawful decisions. They have operational responsibilities which are generally set out in the Council's scheme of delegations, or in their job descriptions. These will generally be of a managerial, technical or administrative nature, and are part of the normal day-to-day work of all Council employees.

- 7 The Member Code of Conduct describes how Members should act when taking decisions and in particular in relation to advice from officers:-
- "A member ... must reach decisions having regard to any relevant advice by the authority's officers..."
- 8 In advising, officers are free to give their professional advice wherever appropriate. Councillors may wish to test this advice by questioning and challenging something they do not agree with, but they should not, by their conduct or actions, make employees feel intimidated or threatened. They should ensure that any challenge of advice given is made to an employee of suitable seniority, generally the Chief Executive, Corporate Director or Chief Officer. Employees should remember that councillors are democratically elected to secure their objectives and fully entitled to question advice given, and to receive a full and complete explanation. Employees should always seek to meet the Council's objectives when advising, provided that this can be done legally and within financial resources.
- 9 If Members remain dissatisfied with the advice given, then they may refer the matter to the Leader, the appropriate Cabinet Member or the relevant Committee Chairperson. Where necessary and appropriate, either by agreement with the Chief Executive, relevant Corporate Director or Chief Officer, or following a decision of the Council, professional advice can be commissioned by relevant officers (in consultation with relevant Members) from a reputable and suitably qualified source outside the Council. Any subsequent report to the Council will contain the professional advice of the Chief Executive or officer named as author, but will also contain any external professional view, clearly identified as such.
- 10 This Council operates a system which requires advice on the legality and achievability (including financial matters) of the decision in advance of its consideration, and for that advice to be captured in reports to Members, Cabinet, Committees or the Council. Officers should be permitted to give their complete advice, including a description of any relevant options and advice as to legal and financial probity. When oral advice is given, it should be recorded in writing by the officer concerned.
- 11 The Council has three main statutory officers; the Chief Executive, the Monitoring Officer and the Section 151 Officer, who have duties to advise the Council as a corporate body or the Cabinet in relation to Executive Functions, and have a statutory right to advise as they believe appropriate within their statutory duties.

Correspondence with Councillors and others

- 12 The Council has a detailed Protocol setting out how officers should deal with correspondence from councillors and other elected representatives. The Protocol may change from time to time to adjust to differing circumstances, but councillors and officers should refer to it for guidance on this issue. Officers should always try to respond to Members within the Council's target

timescales for response, and if they cannot, should keep the Member informed as to progress. If correspondence is referred by an officer to a Member for response, the Member should also use best endeavours to reply within Council target response times.

Relationships between Officers and Members

- 13 As indicated above, although officers have a duty to serve the Council as a corporate body, their working relationships will be different with different groups of Members. The following paragraphs identify and give guidance on key issues in this area.
- 14 **All Councillors** – all councillors and employees will demonstrate mutual respect and will deal with each other sympathetically, efficiently and without bias. Officers are responsible for advising the whole Council but may occasionally be called upon by individual Members to advise or give information on particular issues that relate to the councillor's representational or constituency roles. This is entirely proper and within available resources, advice will be given. Officers should not advise councillors on their individual positions or to assist them in personal capacities, but only in relation to Council matters. The Monitoring Officer or his/her nominee may advise individual councillors on the Member Code of Conduct and their responsibilities in relation to declaration of interests.

Individual Members may request that advice given to them is treated in confidence. They should make this clear at the start of any discussion or correspondence with the officer concerned. The officer will then advise the Member as to whether the discussion or correspondence can be treated as confidential within the law and within Council procedures, so that both parties have a clear understanding of the position. Information which indicates that the Council may be in breach of a duty, involves the protection of vulnerable people or alleges misconduct, for example, may not be kept confidential, and may be reported to the proper person or authority.

- 15 **Chairpersons and Officers** – the chairperson of the Council and/or chairpersons of committees have particular roles in relation to the business of the Council or committees, and officers will support them in those roles. Generally, and subject to the Council's rules of procedure set out in Part 4, the Chairperson of any Council body will finalise relevant agendas and the officer with responsibility for issuing the agenda will comply with the Chairperson's wishes in this respect. However, in certain instances, statutory officers have a right to have items included on relevant agendas, and these and any instructions issued by statutory officers in this respect will be followed.
- 16 **Leader and Cabinet and Officers** – although employees serve the Council as a whole, senior employees will work closely with the Leader and Cabinet Members on policy matters. In particular, they may be asked to brief Members on Council powers, the implementation of policies and available options. This is entirely acceptable, whether done individually or collectively. The Leader and Cabinet Members recognise that all officers are employees of

the full Council and may not be asked by Members to advise in a certain way, or to carry out their duties in a way which does not accord with formal decisions or with the officer's own professional judgement. This is, of course, subject to the requirement that officers must carry out the lawful decisions of the Council and the Cabinet.

- 17 **Party Groups and Officers** – no officer may be compelled to attend a meeting of the Council's political groups and similarly may not insist on doing so. Officers will not attend party group meetings which include individuals other than Council Members or Council officers acting in that capacity. If an officer gives a briefing to any political group represented on the Council, he/she will offer a similar briefing to the other party groups.
- 18 **Co-opted Members and Officers** – the Council has several co-opted members who have a statutory right to vote on issues in certain circumstances. Officers will deal with co-opted members in the same way as they deal with all councillors and will be available to advise them as set out in paragraph 10 above, in respect of their particular statutory functions only.

Conduct and Effectiveness

- 19 If councillors have any concerns about the effectiveness or conduct of particular officers, they will take this up directly and confidentially with the appropriate Corporate Director with responsibility for the officer's service area, or the Chief Executive if there is no appropriate Corporate Director or the issue relates to a Corporate Director, or the Leader if the issue relates to the Chief Executive. The issue will then be handled in accordance with the Council's procedures and the Member and officer concerned will be advised of the outcome, unless there are legal reasons why they may not. Personal criticism (except in pursuance of a legal obligation) by Members of individual officers or identifiable groups of officers will not take place in public forums (including the media) as this could seriously affect the ability of the Council to effectively defend its position as an employer and may in some circumstances render it liable to payment of compensation.
- 20 Similarly, if any officer has concerns about the conduct of a particular Member, he/she will raise it in the first instance with his/her Chief Officer or Corporate Director so that attempts can be made to resolve the issue on an amicable basis. If this is not possible, or the alleged misconduct is of a serious nature, the matter will be reported to the Council's Monitoring Officer, who will then advise on whether it is appropriate for the issue to be referred to the Standards Commissioner for Wales under the Member Code of Conduct. No Council officer will publicly criticise any councillor (except in pursuance of a legal obligation) as this would be a departure from the proper statutory process and may prejudice that process.

Access to Information and Documents

- 21 The Council promotes openness and access to information by all its councillors. However, the law prevents the release of confidential or exempt information in certain circumstances, and both officers and members will abide by the Council's Access to Information Procedure Rules set out in Part 4 of this Constitution. Confidential information or exempt information provided to Councillors must be used properly, and only for the purposes for which it has been released.

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MONMOUTHSHIRE COUNTY COUNCIL

40 PROTOCOL ON MEMBER AND OFFICER RELATIONS

40.1 Introduction

40.1.1 The purpose of this Protocol is to guide Members and Employees of the Council in their relations with one another.

40.1.2 Mutual respect between Members and Employees is essential to good local government. However, close personal familiarity between individual Members and Employees can damage this relationship and prove embarrassing to other Members and Employees.

40.1.3 The relationship has to function without compromising the ultimate responsibilities of Employees to the Council as a whole, and with due regard to such technical, financial, professional and legal advice that Employees can legitimately provide to Members. The Protocol seeks to set a framework that assists the working relationships between Members and Employees.

40.2 Roles of Members

40.2.1 Members undertake many different roles. Broadly, Members will: (a) express political values and support the policies of the party or group to which they belong (if any); (b) represent their electoral division and are advocates for the citizens who live in the area; (c) be involved in active partnerships with other organisations as community leaders; (d) contribute to the decisions taken in Full Council and in its various bodies on which they serve, as well as joint committees, outside bodies and partnership organisations; (e) help develop and review policy and strategy; (f) monitor and review policy implementation and service quality; (g) be involved in quasi-judicial work through their Membership of regulatory committees.

40.3 Roles of Employees

40.3.1 Briefly, Employees have the following main roles: (a) managing and providing the services for which the Council has given them responsibility and being accountable for the efficiency and effectiveness of those services; (b) providing advice to the Council and its various bodies and to individual Members in respect of the services provided; (c) initiating policy proposals; (d) implementing agreed policy; (e) ensuring that the Council always acts in a lawful manner.

40.4 Respect and Courtesy

40.4.1 For the effective conduct of Council business there must be mutual respect, trust and courtesy in all meetings and contacts, both formal and informal, between Members and Employees. This plays a very important part in the Council's reputation and how it is seen in public. It is very important that both Members and Employees remember their respective obligations to enhance the Council's reputation and to do what they can to avoid criticism of other Members, or other Employees, in public places.

40.5 Undue Pressure

40.5.1 It is important in any dealings between Members and Employees that neither should seek to take unfair advantage of their position.

40.5.2 In their dealings with Employees (especially junior Employees), Members need to be aware that it is easy for them to be overawed and feel at a disadvantage. Such feelings can be intensified where Members hold senior official and/or political office.

40.5.3 A Member should not apply undue pressure on an Employee either to do anything that they are not empowered to do or to undertake work outside normal duties or outside normal hours. Particular care needs to be taken in connection with the use of Council property and services.

40.5.4 Similarly, an Employee must neither seek to use undue influence on an individual Member to make a decision in their favour, nor raise personal matters to do with their job, nor make claims or allegations about other Employees. (The Council has formal procedures for consultation, grievance and discipline, and Employees have the right to report possible wrongdoing under the Council's Confidential Reporting Code.)

40.6 Familiarity

40.6.1 Close personal familiarity between individual Members and Employees can damage the principle of mutual respect. It could also, intentionally or accidentally, lead to the passing of confidential information or information which should not properly be passed between them, such as personal details.

40.6.2 Such familiarity could also cause embarrassment to other Members and/or other Employees and even give rise to suspicions of favouritism.

40.6.3 For these reasons close personal familiarity must be avoided.

40.7 Breach of Protocol

40.7.1 If a Member considers that they have not been treated with proper respect or courtesy they may raise the issue with the Employee's line manager. If direct discussion with the manager does not resolve the complaint it should be referred to the Head of Service or Chief Officer responsible for the employee concerned. Breach of the Protocol may give rise to disciplinary proceedings against an Employee if the circumstances warrant it.

40.7.2 If an employee considers that a Member has contravened the protocol they should consult their line manager who will if necessary involve the Head of Service or Chief Officer. In certain circumstances breach of the Protocol may also constitute a breach of the Members' Code of Conduct. If the breach is sufficiently serious this may warrant a formal reference to the Monitoring Officer as a complaint to be considered for potential investigation by the Standards Committee. Many complaints will be capable of informal resolution. The Monitoring Officer or the Chief Executive will assist in this process if necessary.

40.8 Provision of Advice and Information to Members

40.8.1 Members are free to approach Employees of the Council to provide them with such information and advice as they may reasonably need in order to assist them in discharging their role as a Member of the Council. This can range from a request for general information about some aspect of the Council's activities to a request for specific information on behalf of a constituent.

40.8.2 Employees should always endeavour to respond to requests for information promptly and should in any event inform the Member if there is likely to be any appreciable delay in dealing with an enquiry. As a minimum the timescale for responding to correspondence should be observed i.e. either

a full response or, if this is not possible, an acknowledgement that fully explains what is happening within [five] working days of the receipt of the enquiry.

40.8.3 The legal rights of Members to inspect Council documents are covered partly by statute and partly by common law.

40.8.4 The Access to Information Procedure Rules of this Constitution explain the position with regard to access to papers relating to the business of a Council body.

40.8.5 The exercise of the common law right depends upon a Member's ability to demonstrate a "need to know". In this respect a Member has no right to "a roving commission" to examine any documents of the Council. Mere curiosity is not sufficient.

40.8.6 The information sought by a Member should only be provided by the respective Service as long as it is within the limits of the Service's resources. For their part, Members should seek to act reasonably in the number and content of the requests they make.

40.8.7 It is important for Services and their staff to keep Members informed both about the major issues concerning the Council and, more specifically, about issues and events affecting the area that they represent. Local Members should be informed about proposals that affect their electoral division and should also be invited to attend Council initiated events within their electoral division. (Further details are contained in the Local Member Consultative Charter, which is annexed to this Protocol).

40.8.8 If a Member asks for specific information relating to the work of a particular Service, and it appears possible or likely that at a subsequent meeting an issue could be raised or question asked on the basis of the information provided, then the appropriate Cabinet Member or Committee Chair concerned should be advised about the information provided.

40.8.9 Officers have to advise Members from time to time that a certain course of action cannot be carried out. Members sometimes assume that this is a case of Officers deliberately obstructing the wishes of politicians. In fact this is hardly ever the case. Officers are employed to give unbiased professional advice even if it is not what Members want to hear. They do this as much for the protection of Members as for any other reason. However, the mark of an effective Officer is that if they do have to give negative advice, this will be accompanied by suggestions as to how Members might achieve some or all of their objectives in other ways. Such Officers are invaluable to any Council.

40.8.10 Members may be entitled under the Freedom of Information Act 2000 to receive information which falls outside their common law rights based on the "need to know". Employees are encouraged to supply documents to Members without the need for a formal FOI request if it is apparent from the Member's enquiry that any individual would be entitled to receive such documentation. The Council's Information Officer will be able to advise in consultation if necessary with the Monitoring Officer on whether any request would fall within the Freedom of Information Act.

40.9 Confidentiality

40.9.1 In accordance with the Code of Conduct for Members, a Member must not disclose information given to them in confidence by anyone, or information acquired which they believes, or ought reasonably to be aware, is of a confidential nature, except where: (a) they have the consent of a person authorised to give it; (b) they are required by law to do so; (c) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees to be subject to an agreement as directed by the Monitoring Officer not to disclose the information to any

other person; or (d) the disclosure is: (i) reasonable and in the public interest; and (ii) made in good faith and in compliance with the reasonable requirements of the authority.

40.9.2 Confidential Committee papers (pink papers) are to be treated as confidential information unless the relevant Committee resolves not to exclude press and public. Members are reminded that the author of the report makes the initial decision as to whether or not the papers are to be treated as confidential. The decision as to whether they remain confidential is for the Committee. Other information may be confidential because to disclose it would be against the Council's or the public interest. Information may also be confidential because of the circumstances in which it was obtained.

40.9.3 Information and correspondence about an individual's private or business affairs will normally be confidential.

40.9.4 Officers should make it clear to Members if they are giving them confidential information. If a Member is not sure whether information is confidential, they should ask the relevant Officer, but treat the information as confidential in the meantime.

40.9.5 Any Council information provided to a Member must only be used by the Member in connection with the proper performance of the Member's duties as a Member of the Council.

40.9.6 If a Member receives confidential information and considers it should be disclosed to another person because it is reasonable and in the public interest to do so then they must first consult with the Monitoring Officer and shall not disclose the information without having regard to any advice given by that Officer.

40.10 Provision of Support Services to Members

40.10.1 The only basis on which the Council can lawfully provide support services (e.g. stationery, word processing, printing, photocopying, transport, etc.) to Members is to assist them in discharging their role as Members of the Council. Such support services must therefore only be used on Council business. They should never be used in connection with party political or campaigning activity or for private purposes.

40.10.2 Correspondence. Official letters on behalf of the Council should be sent in the name of the appropriate Employee, rather than over the name of a Member. There are circumstances where a letter sent in the name of a Member is perfectly appropriate, for example, in response to a letter of enquiry or complaint sent direct to that Member. Letters which, for example, create obligations or give instructions on behalf of the Council should never be sent out in the name of a Member.

40.10.3 Media. Communication with the media can be an important part of a Member's workload. In general, Members provide comment and views while Employees provide factual information. If a Member is unsure about the circumstances of a particular issue they should contact the appropriate Chief Officer or Head of Service concerned or ask the Press Office to do so.

40.11 The Council's Role as Employer

40.11.1 In their dealings with Officers, Members should recognise and have regard to the Council's role as employer. Members should be aware that Officers could rely on inappropriate behaviour of a Member in an employment case against the Council.

40.12 Political Activity

40.12.1 There are a number of constraints that apply to an employee who occupies a post that is designated as "politically restricted" under the terms of the Local Government and Housing Act 1989.

Such employees are prevented from: (a) being a Member of Parliament, European Parliament or local authority; (b) acting as an election agent or sub-agent for a candidate for election as a Member of any the bodies referred to in (a); (c) being an Officer of a political party or any branch of a political party or a Member of any committee or sub-committee of such a party or branch, if their duties would be likely to require them to: (i) participate in the general management of the party or branch; or (ii) act on behalf of the party or branch in dealings with persons other than Members of the party; (d) canvassing on behalf of a political party or a candidate for election to any the bodies referred to in (a); (e) speaking to the public with the apparent intent of affecting public support for a political party; and (f) publishing any written or artistic work of which they are the author (or one of the authors) or acting in an editorial capacity in relation to such works, or to cause, authorise or permit any other person to publish such work or collection - if the work appears to be intended to affect public support for a political party.

40.12.2 It is common for party groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant decision making body. Employees may properly be called upon to support and contribute to such deliberations by party groups provided they maintain a stance which is politically impartial. Support may include a range of activities including briefings for Members relating to their roles, e.g. chairperson or spokesperson. Employees should be required to give information and advice to political groups on Council business only and not on matters which are purely of a party political nature. Such advice should be available to all party groups and not solely to the majority group. It is important that the political neutrality of Employees is preserved and that group confidentiality is maintained by Employees.

40.12.3 Usually the only Employees involved in attending group meetings will be the Chief Executive, Chief Officers and Heads of Service and they will generally leave the meeting after making their presentation and answering questions.

40.12.4 Employees are employed by the Council as a whole. They serve the Council and are responsible to the Chief Executive and their respective Chief Officers/Heads of Service, and not to individual Members of the Council whatever office they might hold.

40.12.5 Both Members and Employees are subject to their own Codes of Conduct which can be found in the Constitution. This Protocol provides guidance on working relationships between Members and Employees. It is essential that both are familiar with the detailed obligations in their respective Codes of Conduct which will prevail in the event of any conflict between the Codes and this Protocol.

40.13 Sanctions

40.13.1 Complaints about any breach of this Protocol by a Member may be referred to the Monitoring Officer. It should be noted that certain breaches may also amount to breaches of the Code of Conduct for Members.

40.13.2 Complaints about any breach of this protocol by an Officer may be referred to the relevant Chief Officer, the Chief Executive or the Monitoring Officer.

40.14 Conclusion

40.14.1 It is hoped that, by following good practice and securing sensible and practical working relationships between Members and Employees, we can provide one of the cornerstones of a successful local authority and thereby enhance the delivery of high value quality services to the people of the area. Mutual understanding, openness and respect are the greatest safeguard of the integrity of the Council, its Members and Employees.

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RHONDDA CYNON TAF

RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

STANDARDS COMMITTEE

13 NOVEMBER 2023

ADJUDICATION PANEL FOR WALES' ANNUAL REPORT 2022-2023

REPORT OF THE MONITORING OFFICER

1. PURPOSE OF REPORT

To provide for Members' information a copy of the Adjudication Panel for Wales' Annual Report 2022-2023.

2. RECOMMENDATION

2.1 To note the contents of the Adjudication Panel for Wales' Annual Report 2022-2023 contained at Appendix 1 to the report.

3. BACKGROUND

3.1 The Adjudication Panel for Wales produces an Annual Report summarising the activity of the Panel during the relevant reporting period.

3.2 Its latest published Annual Report for 2022-2023 is provided for Members' information at Appendix 1.

3.3 It provides details of the membership of the Panel, an analysis of its performance and a useful section summarising cases and decisions made by the Panel during the reporting period.

LOCAL GOVERNMENT ACT 1972
AS AMENDED BY
THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985
STANDARDS COMMITTEE
13 NOVEMBER 2023
REPORT OF MONITORING OFFICER

BACKGROUND PAPERS

Freestanding Matter

Contact: Mr. Andy Wilkins (Director of Legal Services & Monitoring Officer)



Adjudication Panel for Wales Annual Report

Year 2022 – 2023

PDC / APW

PANEL DYFARNU CYMRU
ADJUDICATION PANEL FOR WALES

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Section 4	Business Priorities	16
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Foreword

This is my eighth and final report as President of the Adjudication Panel for Wales (“APW”). The report covers the period 1 April 2022 – 31 March 2023.

We aim to ensure that the Panel serves the public interest by dealing with any disputes both efficiently and effectively. We make every effort to ensure that all those involved in the dispute feel that the dispute has been fairly resolved within as short a timescale as is reasonable. We are conscious that the public must have confidence that any breaches of the Code of Conduct will be dealt with fairly in order to uphold trust and confidence in local democracy.

This past year has continued to be a comparatively busy one for the APW; it is though too soon to identify whether the duties on group leaders of councils will result in fewer allegations that the Code of Conduct has been breached, or if there is a long-term trend of increased difficulties.

I have always been of the view that leadership of any court or tribunal is an immense privilege and honour, but it is often best to be time limited to ensure new ways of working or new ideas to refresh and strengthen the judicial body. I hope that I brought to the APW such freshness; my aim was to modernise and develop our practices, approach and judgement. I believe that aim has been achieved. I have in various forums discussed the changes I would wish to see in our powers and Regulations, and am pleased to note the Welsh Government consultation on these issues following the Penn Review on the Ethical framework. I was also grateful to hear from many users how helpful they have found the updated Sanctions Guidance. However, all things must come to an end; I intend to step down from the APW in the coming financial year. This will continue the development of its practice and procedures, which will be critical if the Welsh Government does create the First Tier Tribunal for Wales.

I wish the new President of the APW all the best in their challenging but exciting role. I pay tribute to the members of the APW, both current and past, the Registrars, and my predecessor as President, the late Peter J Davies. During my period of service, there have been a wide variety of cases resolved by the APW; some have seen unexpected developments, allegations that the APW is not independent (countered by the support shown by the First Ministers, Counsels General and members of both the Senedd Cymru and relevant authorities), and the determination of the most contentious and complex matters. There were the challenges presented by the Covid-19 global pandemic to contend with in addition. Throughout it all, the members of the APW followed the excellent example of my predecessor and delivered just and fair decisions, explaining why each tribunal had reached its judgment and on occasions why it was necessary to interfere with the decision of the voters to elect the individual in question. As I write this report, none have been successfully appealed. I could have asked no more from the members of the APW or administration, but they consistently have over-delivered through their support to me and their kindness (an often over-looked virtue) shown to all users.

Any questions or comments arising as to any aspect of the workings of the Panel, or as to the contents of the Report, are most welcome and should in the first instance be addressed to the Registrar. I have no doubt that my successor, whoever they are, will be as interested in hearing from interested parties as I have been.

Claire Sharp
President, Adjudication Panel for Wales

Section 1 – About Us

In this section:

- Basis for the APW
- The APW's Function
- The APW's Regulations
- The APW's Process
- Members of the APW
- Appointments
- Training
- Contacting the APW
- Accessing the APW

Basis for the APW

The Adjudication Panel for Wales (APW) is an independent tribunal that has been set up to determine alleged breaches against an authority's statutory Code of Conduct by elected and co-opted members of Welsh county, county borough and community councils, fire and national park authorities.

The APW was established under Part III of the Local Government Act 2000.

The APW's Function

The Code of Conduct for an authority provides its members with a set of standards expected of them in public life. The code of conduct covers various requirements as to how members should conduct themselves and includes requirements in relation to equality, personal and prejudicial interests, confidential information, their authority's resources and the need to avoid bringing their office or authority into disrepute.

The APW has two statutory functions in relation to breaches of the Code of Conduct:

- to form case or interim case tribunals ("Case Tribunals") to consider **references** from the Public Service Ombudsman for Wales (PSOW), following the investigation of allegations that a member has failed to comply with their authority's Code of Conduct; and
- to consider **appeals** from members against the decisions of local authority standards committees that they have breached the Code of Conduct ("Appeal Tribunals").

The APW's Regulations

The APW operates in accordance with its procedural regulations and other associated legislation. The regulations ensure that all cases heard by the APW are treated fairly, consistently, promptly and justly. They ensure that everyone who comes before the APW clearly understands the steps they must take so that the facts of the dispute and the relevant arguments can be presented effectively to the APW. They also ensure that every party to a case understands the arguments of the other party and can respond to them.

APW's procedures are governed by the following legislation:

- The Local Government Act 2000 (as amended);
- The Adjudications by Case Tribunals and Interim Case Tribunals (Wales) Regulations 2001 (as amended), and
- The Local Government Investigations (Functions of Monitoring Officers and Standards Committees (Wales) Regulations 2001 (as amended)).

The APW's Process

Anyone wishing to respond to a reference from the PSOW or to make an application for permission to appeal to the APW must complete and send the relevant form to the APW.

At an APW hearing the panel is composed of a legally qualified chairperson and 2 lay members. Legally qualified members can also sit as a lay member. APW hearings are normally held in public and take place near to the authority area.

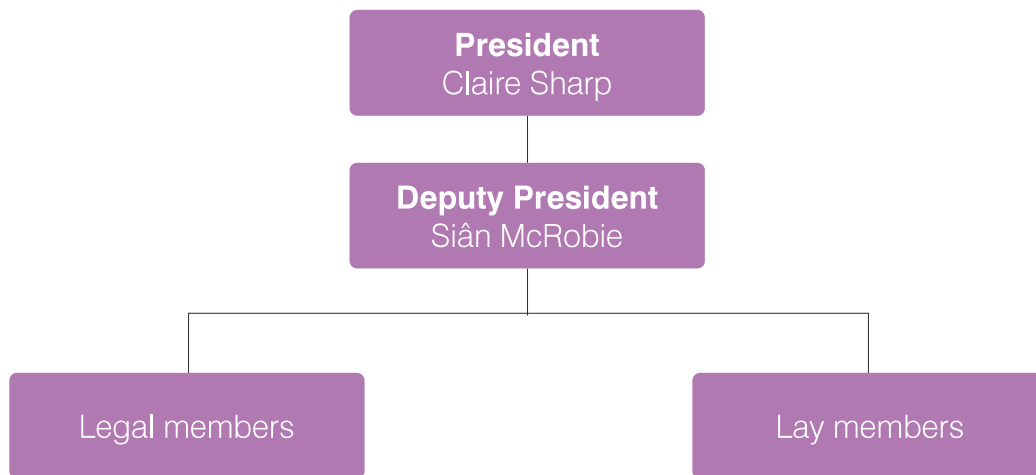
The APW publishes its decisions on the website for the APW. Decisions of Case Tribunals can be appealed on limited grounds to the High Court. Permission to appeal to the High Court must first be sought from the High Court.

Full information and guidance about the APW and its procedures, are provided on the website for the APW. Alternatively, please contact the APW administration for further information or if you would like to receive publications in a different format. The contact details can be found on page 6.

Members of the APW

Appointments to the APW are made by the First Minister after consideration of recommendations made by the Judicial Appointments Commission.

President	The President has judicial responsibility for the APW and its members.
Deputy President	The Deputy President supports the President and fulfils the duties of President if the President is unable to carry out her duties, either temporarily or permanently.
Legal Members	Legal members are qualified lawyers and have responsibility for conducting proceedings at hearings and advising the administration on matters of law. Legal members write APW decisions and give directions where necessary.
Lay Members	Lay members have a wide range of knowledge and experience relevant to the work of the APW.
Administration	The day-to-day administration is largely delegated to the administration which deals with all the preliminary paperwork and the processing of applications to the APW. The administration consults the President and/or legal members on all legal points arising during the preliminary pre-hearing stages of the proceedings and sends rulings and directions in writing to the parties. The administration acts as a point of contact for chairpersons, members and APW users and attends hearings to help with the efficient running of proceedings.



Appointments

During this period, we have appointed 1 new lay member.

Training

A training seminar was held on **13 May 2022**, with a continued emphasis on judgecraft, together with case law updates and a review of procedural matters.

Contacting the APW

To contact the APW Administration:

APW Address: Registrar to the Panel
Adjudication Panel for Wales
Welsh Tribunals Unit
PO BOX 100
Llandrindod Wells
LD1 9BW

APW Telephone Helpline: 03000 259805

APW E-mail: adjudication.panel@gov.wales

Accessing the APW

The APW is happy to communicate with you in Welsh or English. If a Welsh speaker is not immediately available then we will arrange for a Welsh-speaking member of staff to phone you back.

You can choose to have your hearing conducted in Welsh or English. If your first language is not Welsh or English and you wish to speak in your first language during the hearing, we can arrange for an interpreter to be present. If you need a sign language interpreter to attend the hearing, we will arrange this.

If you or anyone you are bringing to the hearing has any other access requirements that may affect our arrangements for the hearing, provisions will be made.

To enable arrangements for interpreters or to make provisions for any additional needs of attendees, sufficient notice must be given to the administration.

Section 2 – Performance and Progress

In this section:

- Numbers and statistics
- Hearings Data
- Onward appeals
- Achievement against key performance indicators
- Complaints

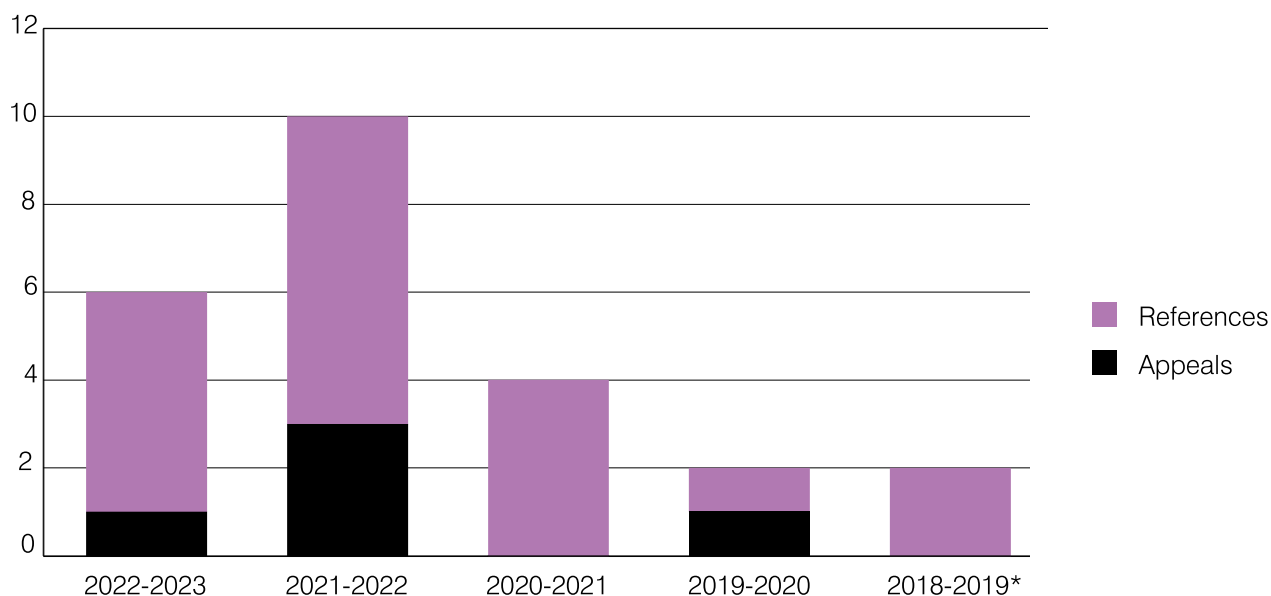
Numbers and Statistics

A Tribunal year runs from April to March. As the numbers of cases received are relatively low, figures are given for a 5-year period to allow for comparison.

The following statistics are collated:

- Number of references and appeals received
- Type of applications received and registered
- Number of applications finalised
- Outcome of applications.

Graph 2.1: Number of references and appeals received by year April 2018 – March 2023



* The 2018-2019 figure was incorrectly detailed in the 2018-2019 Annual Report which has been corrected above.

Graph 2.2: Number of references and appeals decided by year April 2018 – March 2023

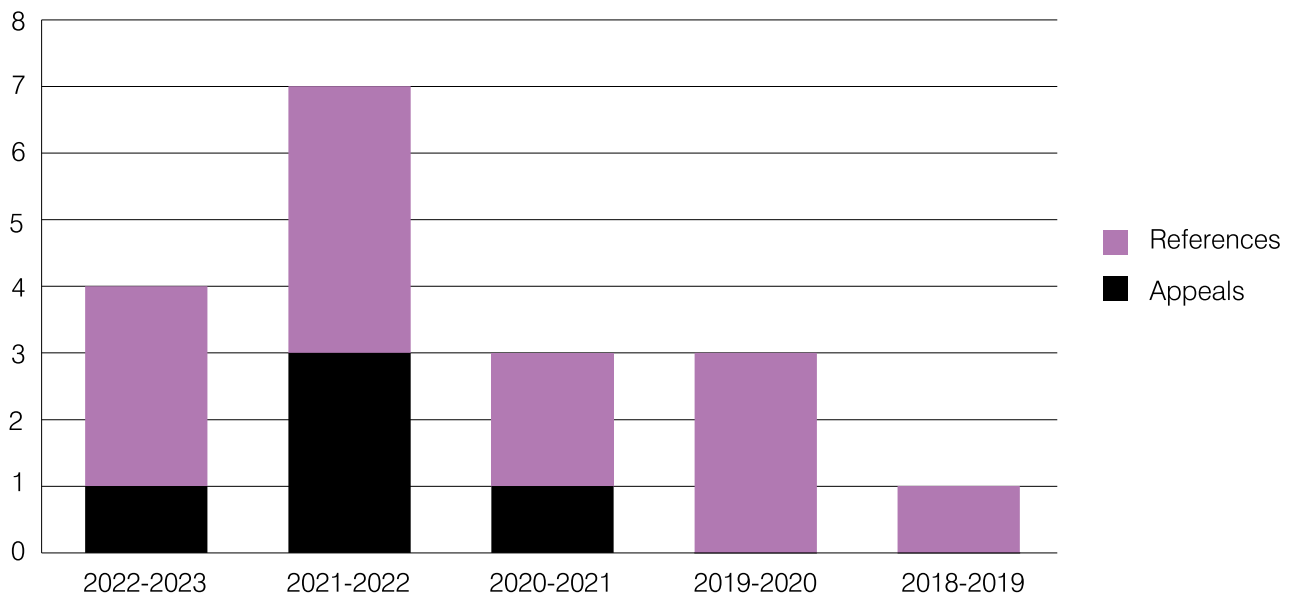
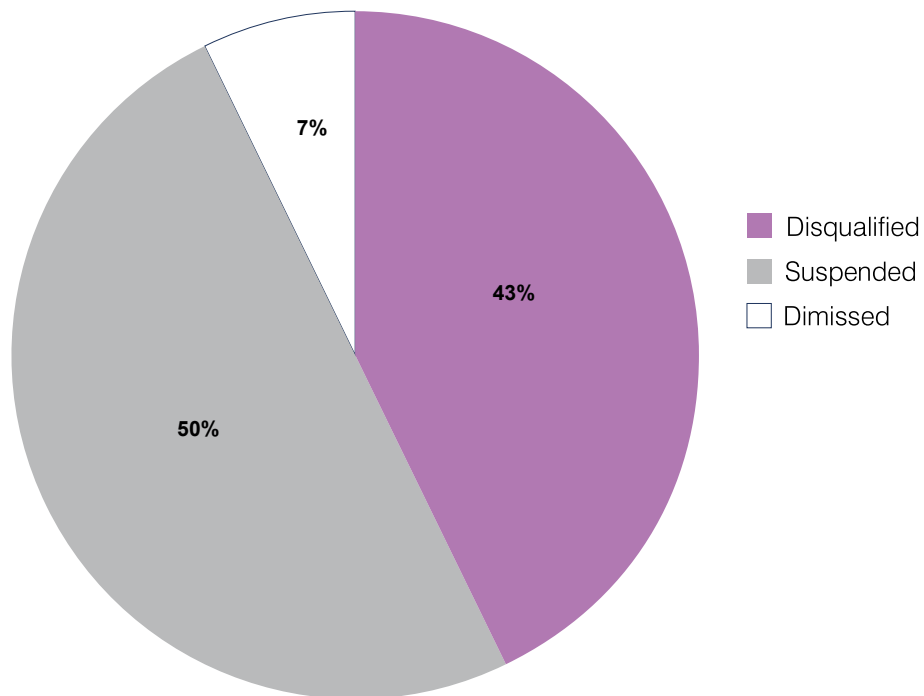
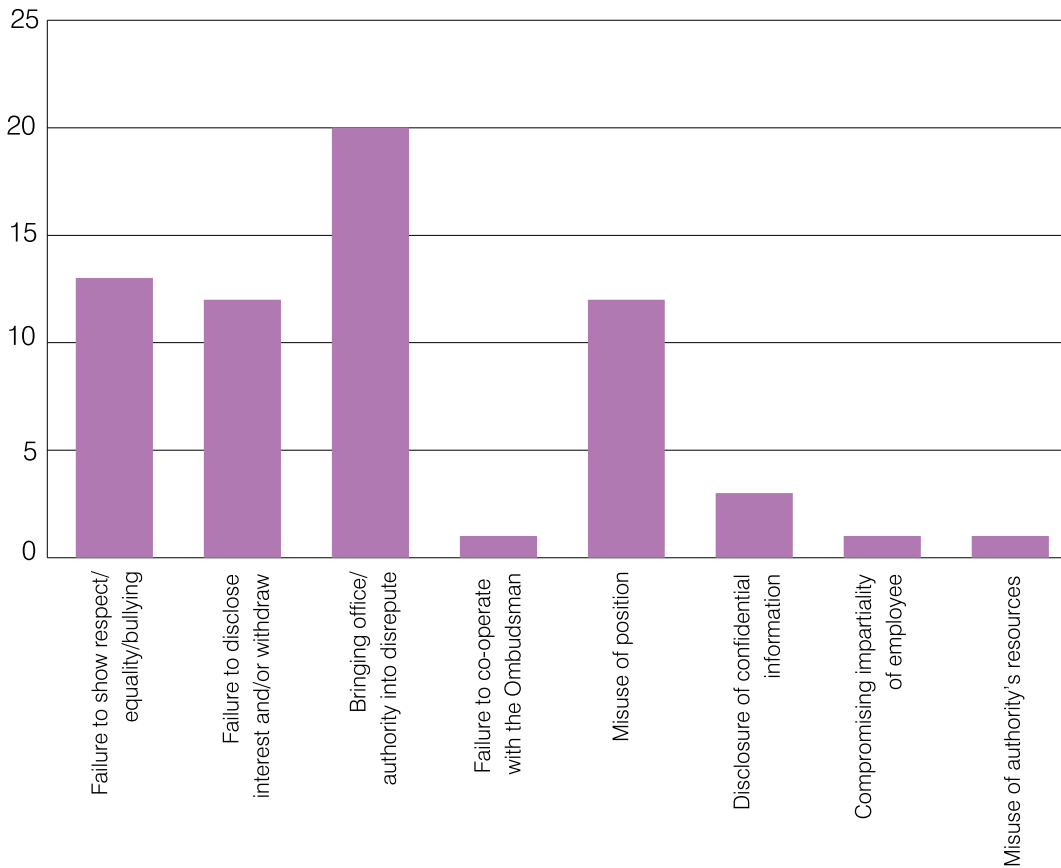


Chart 2.3: Outcomes of references and appeals April 2018 – March 2023

The chart below shows the outcome of references and appeals decided by the Adjudication Panel over the last 5 years



Graph 2.4: Breaches by type April 2018 – March 2023



Hearings data

During 2022-2023:

Type	Length (in days)
Reference	3 hearing days
Appeal	0 hearing day

4 listing conferences took place in relation to these cases.

Onward appeals

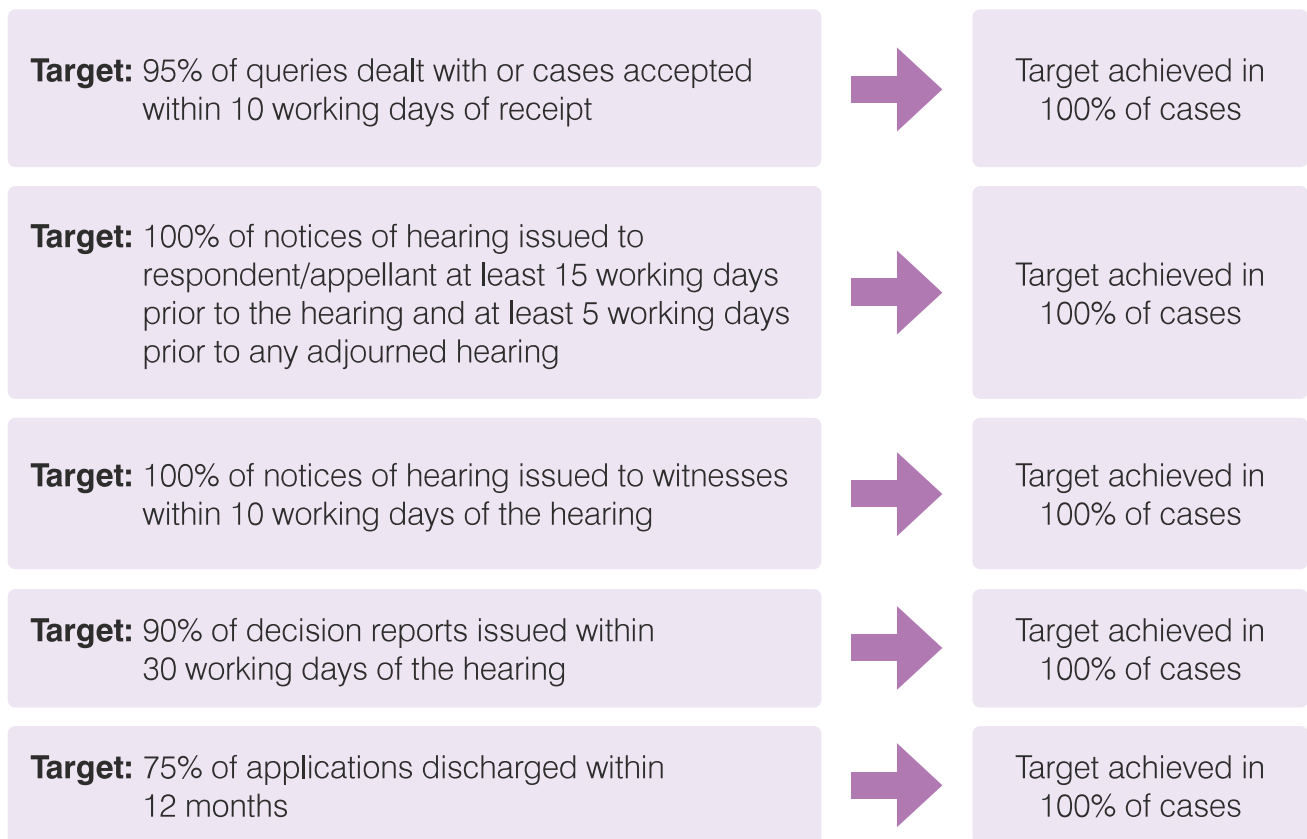
Applications for permission to appeal a decision of a Case Tribunal or Interim Case Tribunal can be made on limited grounds to the High Court. Over the period of this report, no applications for permission were made.

Achievement against key performance indicators

To monitor how effectively services are delivered, we have key performance indicators aimed at measuring two key aspects of our business; the speed of our service and the quality of service through customer satisfaction.

To measure the speed of our service, we have a series of primary performance indicators based on the time taken to process an application – from receipt to the hearing or disposal (see below).

Speed of our service 2022-2023



Complaints

The APW received and concluded 0 formal complaint during the reporting period.

Section 3 – Case summaries

In this section:

- References
- Appeals

References

[APW/008/2021-022/CT](#)

[Pembrokeshire County Council](#)

The allegations arose out of three separate complaints and were that the former councillor had breached the Code of Conduct of Pembrokeshire County Council by bullying or harassing individuals and conducting himself in a manner which could reasonably be regarded as bringing his office or the relevant authority into disrepute. The case tribunal unanimously found that the former councillor had acted as alleged by the Public Services Ombudsman for Wales (“PSOW”).

The former councillor was found to have repeatedly made false statements about another councillor and members of the public. In doing so, he was found to have bullied the other councillor, harassed a member of the public, and brought both his office and the relevant authority into disrepute.

The former councillor was also found to have posted online misinformation about the Welsh Government’s Relationships and Sex Education curriculum, which he then repeated in an email to a fellow councillor. The case tribunal found that there was no basis for these statements about the curriculum and in saying that there was, the former councillor wilfully and dishonestly misinformed people to outrage them; this brought his office and/or the relevant authority into disrepute.

The former councillor was found to have falsely and maliciously suggested on Facebook that another member of the public was subject to registration because he was a sex offender. He then falsified evidence given to the PSOW in a deliberate attempt to mislead the investigation. This brought his office and/or the relevant authority into disrepute. The case tribunal unanimously concluded that the former councillor should be disqualified for three years from being or becoming a member of a relevant authority.

[APW/009/2021-022/CT](#)

[Llansantffraed Community Council](#)

The allegations were that the former councillor had conducted herself in a manner which could reasonably be regarded as bringing her office or the relevant authority into disrepute. The case tribunal declined to consider whether she had failed to report any conduct by another member or anyone who works for, or on behalf of, the authority which she reasonably believed involved or was likely to involve criminal behaviour on the basis that paragraph 6(1)(b) did not include a requirement to report a councillor’s own criminal behaviour.

The former councillor was involved in an incident with a contractor for the council, in which she drove her car at speed on private land at him while he was undertaking his duties. Her car struck two minors during the incident; at least one suffered bodily harm. The former councillor continued in her role as a Councillor after the incident and after pleading guilty to the offence of causing bodily harm by wanton and furious driving contrary to Section 35 of the Offences against the Person Act 1861; neither her fellow councillors nor the Clerk reported the matter to the PSOW. She was given a suspended sentence of 10 weeks' imprisonment, which fell short of automatic disqualification.

The case tribunal unanimously found by unanimous decision that the councillor had failed to comply with the Code of Conduct by conducting herself in a manner which could reasonably be regarded as bringing the office or authority into disrepute (paragraph 6(1)(a)).

The case tribunal unanimously concluded that the former councillor should be disqualified for one year from being or becoming a member of a relevant authority. In addition, it recommended that all current councillors of Llansantffraed Community Council attended training on the Code of Conduct within a period of three months (to be provided by the Monitoring Officer, her delegate, One Voice Wales or any other appropriate provider) to ensure that they understand the Code of Conduct, including paragraph 6(1)(b); and that the Council considered requiring the attendance at such training by the Clerk to the Council.

As at the time of writing this report, it appears the Council has not complied with the recommendations in the timescale required. The Public Services Ombudsman Service is responsible for reporting on compliance.

APW/0010/2021-022/CT
Pencoed Town Council

The allegations were that the former councillor had conducted himself in a manner which could reasonably be regarded as bringing his office or the relevant authority into disrepute.

The former councillor was found to have misled the Town Council as to his eligibility to be a Councillor and that this was deliberately or recklessly undertaken both when signing the declaration of acceptance of office and during the 1 year and 8 months that he acted as a Councillor. The former councillor was not eligible to be a councillor having been convicted of three criminal offences in July 2015. He had received a suspended prison sentence exceeding three months, without the option for a fine. This meant that he was not eligible to be a councillor when he stood for election in 2018 and his declaration that he was eligible was false.

The Case Tribunal determined that an individual who is disqualified for being a Member was nevertheless subject to the Code of Conduct when continuing to act in that capacity. It found unanimously that the councillor had failed to comply with the Code of Conduct by conducting himself in a manner which could reasonably be regarded as bringing the office or authority into disrepute (paragraph 6(1)(a)) by standing and remaining in office when disqualified.

The case tribunal unanimously found by unanimous decision that the councillor had failed to comply with the Code of Conduct by conducting himself in a manner which could reasonably be regarded as bringing the office or authority into disrepute (paragraph 6(1)(a)).

The case tribunal unanimously concluded that the former councillor should be disqualified for two years from being or becoming a member of a relevant authority.

The allegations were that the former councillor had conducted herself in a manner which could reasonably be regarded as bringing her office or the relevant authority into disrepute, had used or attempted to use her position improperly to confer on or secure for herself or her husband an advantage or create or avoid for herself or her husband a disadvantage, attended a council meeting at which business in which she had a personal interest was and failed to disclose orally the existence and nature of that interest before or at the commencement of that consideration or when the interest became apparent, failed to withdraw from a meeting in which business in which she had a prejudicial interest was considered, sought to influence a decision about business in which she had a prejudicial interest, and made oral representations to a meeting considering business in which she had a prejudicial interest.

The former councillor was married to the Chair of the Community Council. Audit Wales carried out an investigation into the Council and produced a report critical of the Chair (criticism of others was also made). The former councillor admitted to deliberately not declaring her personal and prejudicial interest due to her relationship with the Chair of the Council when attending and speaking as a councillor at two meetings of the Council about the report, or when she voted at one meeting. She said that she acted in such a way as she wanted to be able to defend her husband as “her husband came first” when there was a conflict between him and her public duties as a councillor.

The Case Tribunal found by unanimous decision that the former councillor had failed to comply with the Code of Conduct as follows:

- You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute (paragraph 6(1)(a));
- You must not in your official capacity or otherwise, use or attempt to use your position improperly to confer on or secure for yourself, or any other person, an advantage or create or avoid for yourself, or any other person, a disadvantage (paragraph 7(a));
- Where you have a personal interest in any business of your authority and you attend a meeting at which that business is considered, you must disclose orally to that meeting the existence and nature of that interest before or at the commencement of that consideration, or when the interest becomes apparent (paragraph 11(1));
- Where you have a prejudicial interest in any business of your authority you must, unless you have obtained a dispensation from your authority’s standards committee –
 - (a) withdraw from the room, chamber or place where a meeting considering business is being held...”(paragraph 14(1)(a)); ...
 - (c) not seek to influence a decision about that business (paragraph 14(1)(c)); ...
 - (e) not make any oral representations (whether in person or some form of electronic communication) in respect of that business or immediately cease to make such oral representations when the prejudicial interest becomes apparent.

The Case Tribunal unanimously concluded that the former councillor should be disqualified for one year from being or becoming a member of a relevant authority.

Appeals

APW/012/2022-023-AT

Wrexham County Borough Council & Brymbo Community Council

Permission to appeal was refused by the President of the Adjudication Panel for Wales on the basis that the councillor had failed to submit his application within the statutory time limit.

Section 4 – Business Priorities

In this section:

- Business priorities for 2022-2023

It is important that the APW continues to develop in order to deliver the best possible service for our customers. This section is about how the APW will build on its achievements through focusing on business priorities and our commitment to our customers.

Business Priorities 2022-2023

- Plan and deliver an all-members training event;
- Continue to deliver an effective and efficient service, meeting key performance indicators;
- Appoint a new President of the Adjudication Panel for Wales;
- Following the outcome of the Law Commission report on Welsh tribunals and the review of the Ethical Framework, and the Welsh Government White Paper in response, action any changes as required by the legislature.

Section 5 – Expenditure

In this section:

- Expenditure for 2022-2023

Expenditure for 2022-2023

Content	Amount
Members Fees and Expenses (proceedings and training)	£30,210
Tribunal events (hearing and other costs)	£5,416
Total	£35,626

Rounded to the nearest £1

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RHONDDA CYNON TAF

RHONDA CYNON TAF COUNTY BOROUGH COUNCIL

STANDARDS COMMITTEE

13 NOVEMBER 2023

PUBLIC SERVICES OMBUDSMAN FOR WALES - ANNUAL REPORT AND LETTER 2022–2023

REPORT OF THE MONITORING OFFICER

1. PURPOSE OF THE REPORT

To provide Members with a summary of matters pertaining to standards of conduct of County, Town and Community Councillors as set out in the Public Services Ombudsman for Wales' ('PSOW') Annual Report and Annual Letter to this Council for 2022-2023.

2. RECOMMENDATION

- 2.1 That the Committee notes the matters relating to Code of Conduct Complaints reported in the Public Services Ombudsman for Wales' Annual Report and Annual Letter to this Council 2022-2023.

3. BACKGROUND AND PSOW 2021-22 ANNUAL REPORT

- 3.1 The PSOW has published his Annual Report for 2022-2023 ('AR') pursuant to Paragraph 14 of Schedule 1 of the Public Services Ombudsman (Wales) Act 2005. The AR has been combined with the annual accounts for the PSOW as it was last year. The purpose of the AR is to report on the performance of the PSOW's office over the year, provide an update on developments and to deliver any key messages arising from their work carried out during the year.

- 3.2 The AR Executive Summary is attached at Appendix 1. The full report can be accessed via the following link on the PSOW website:

[Annual Report 2022-2023](#)

- 3.3 The PSOW also issues an Annual Letter (AL) to each Local Authority in Wales with a summary of complaints received by his office that relate specifically to that Local Authority. The AL is attached as Appendix 2 to this report.

- 3.4 The AR sets out the workload that has been dealt with by the PSOW during 2022-2023. It breaks the workload down into the number of enquiries received and the number of complaints received, and also breaks down the complaints into those received about services (public body complaints) and those

received in relation to Code of Conduct Complaints (CCCs). This report will highlight the data relating to CCCs only (issues arising from public services or the annual accounts section of the AR are beyond the scope of this report).

- 3.5 In Michelle Morris' (the 'Public Services Ombudsman for Wales') forward to her 2022-2023 report the Ombudsman has noted a small reduction in the number of complaints about the Code of Conduct for Councillors and was glad to see that, after the previous year's record numbers her office had to refer fewer cases of potentially serious breaches to local Standards Committees or the Adjudication Panel or Wales.
- 3.6 The PSOW received 283 new complaints about the Code of Conduct – 4% less than in 2022/23. 56% (158) of those complaints concerned Town and Community Councils. For the first time since 2019/20 this represents a decrease in the number of complaints about this group of Councillors. 43% (122) of the total complaints received related to County and County Borough Councillors. This represents a 7% increase in the number of complaints about councillors at principal councils when compared to 2021/22. There were 3 complaints about members of National Park Authorities and zero related to members on Fire & Rescue Authorities & Police and Crime Panels.
- 3.7 The table below shows the proportion of complaints received for each subject:

Subject	2022/23	2021/22	2020/21
Accountability & Openness	10%	5%	4%
Disclosure and registration of interests	9%	11%	14%
Duty to uphold the law	8%	9%	8%
Integrity	6%	8%	12%
Objectivity and propriety	3%	11%	5%
Promotion of equality and respect	61%	51%	55%
Selflessness and stewardship	3%	5%	2%

- 3.8 As in previous years more than half of the new Code of Conduct complaints that the PSOW received were about 'promotion of equality and respect' but there is a further notable increase when compared to last year. Many of these cases, categorised by the PSOW under 'respect', are lower-level complaints. These are the ones where the PSOW will tend to decide quickly that they will not investigate, or where they recommend that the complaint is resolved locally. However, some of these complaints and many of those categorised under 'equality' commonly involve more serious allegations of bullying or discrimination. The PSOW is concerned that more of the complaints relate to the promotion of equality and respect.
- 3.9 There was 1 Code of Conduct complaint made about a Member in relation to their role as an RCT County Borough Councillor during the period, compared against 2 in 2021-2022. The complaint was discontinued after investigation.
- 3.10 6 complaints were received in relation to Town and Community Councils within RCT as against 9 in the previous reporting period. In relation to all 6 complaints the PSOW decided not to investigate - see Table F of Appendix 2.
- 3.11 In 2022-2023 the PSOW closed 280 cases – about the same number as the previous year. The most common outcome of the complaints were that they were 'closed after initial consideration'. The majority were closed under this

outcome. These include decisions where there is no 'prima facie' evidence of a breach of the Code and it is not in the public interest to investigate.

- 3.12 35 complaints were taken forward for investigation in 2022-23, compared to 39 in the 2021-22 period, with the PSOW again directing investigative resources towards the more serious complaints where an investigation is required in the public interest. In 23 cases an investigation was discontinued, no evidence of breach was found or no further action was necessary. The main reasons the PSOW might decide no further action is necessary are if the councillor has acknowledged their behaviour and apologised, or has taken steps to put things right. There were 12 referrals (to either Standards Committees or the Adjudication Panel for Wales) compared to 20 in the previous period – so a notable reduction. 8 referrals were made to Standards Committees and 4 referrals to the Adjudication Panel for Wales. The PSOW welcomes this reduction as it shows they found fewer potentially serious issues that could undermine public confidence in the people who represent them.
- 3.13 The Adjudication Panel for Wales and Standards Committees upheld and found breaches in 96% of the referrals they considered in 2022/23.
- 3.14 The PSOW has stipulated that although she noted some positive trends in 2022/2023 her office continues to underline the value of more education and training for councillors on the Code of Conduct and encourage the use of local resolution procedures. Her belief is that these procedures can calm situations deal with problems early and prevent the need for further escalation to her office.
- 3.15 In 2022/23 the PSOW received 24 Code of Conduct complaints that would potentially meet the statutory definition of disclosure from employees or former employees of a council. The disclosures (8) mostly related to allegations that the members concerned had 'failed to promote equality and respect'. The PSOW investigated 13 of these complaints. So far the PSOW has closed one of those investigations. They decided in that case it was not in the interest to pursue it. The PSOW concluded investigations into 1 relevant complaint that was ongoing since 2021/22 and found no evidence of breach. The Committee decided that there was a breach of the Code of Conduct and censured the member. One case was referred to the Adjudication Panel for Wales. The Panel has not yet decided on that complaint. In three cases, investigations were discontinued. In three cases the PSOW decided that they did not need to take any action further action in respect of the matters investigated. One of the investigations opened in 2020/21 is still ongoing.

4. LEGAL IMPLICATIONS

- 4.1 There are no legal implications arising from this report.

5. CONSULTATION

- 5.1 There are no consultation implications arising from this report.

6. EQUALITY AND DIVERSITY IMPLICATIONS

- 6.1 There are no equality and diversity implications arising from this report.

7. FINANCIAL AND RESOURCE IMPLICATIONS

7.1 There are no financial implications arising from this report.

LOCAL GOVERNMENT ACT 1972

AS AMENDED BY

THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

STANDARDS COMMITTEE

13 NOVEMBER 2023

REPORT OF THE MONITORING OFFICER

Background Papers: Public Services Ombudsman for Wales' Annual Report
2022-2023
Public Services Ombudsman for Wales' Annual Letter –
RCT CBC 2022-2023

Contact: Mr. Andy Wilkins (Director of Legal Services & Monitoring Officer)

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A year of change - a year of challenge

Annual Report and Accounts 2022/23

EXECUTIVE SUMMARY

July 2023



We can provide a summary of this document in accessible formats, including Braille, large print and Easy Read. To request, please contact us:

Public Services Ombudsman for Wales
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CF35 5LJ

Tel: 0300 790 0203

Email: communications@ombudsman.wales

Mae'r ddogfen hon hefyd ar gael yn y Gymraeg.

This document is also available in Welsh.



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A year of change - a year of challenge **Annual Report and Accounts 2022/23**

of the Public Services Ombudsman for Wales
for the year ended 31 March 2023

EXECUTIVE SUMMARY

Our role

We have three main roles.



We investigate complaints about public services.



We consider complaints about councillors breaching the Code of Conduct.



We drive systemic improvement of public services and standards of conduct in local government in Wales.

Our ambition



People of Wales feel that public services treat them fairly and respond when things go wrong.



Welsh public services listen to individuals and use their complaints to learn and improve.



Welsh local government is trusted to deliver the highest standards of conduct.



The Public Services Ombudsman for Wales continues to be an influential and respected voice in public service improvement.

Our principles

We are independent, impartial, fair and open to all who need us.

A word from the Ombudsman

This annual report reflects my first year in office. It has been a year of many successes and positive change, but also some challenges.

We have had fewer new complaints about breaches of the Code of Conduct by Welsh councillors. We also closed a record number of complaints about public services, delivering justice to many more people. During the year, we have continued to help public services improve. We delivered over 180 free training sessions to public bodies on good complaint handling. We also consulted on our next 'own initiative investigation' – which will look at carers needs assessments. Internally, we launched our new Service Quality process and celebrated removing our median gender pay gap.

Despite these and other positives, it has also been a very challenging year. We are seeing more and more complaints about public services. Health continues to be the subject of over 80% of our investigations overall and these investigations are often lengthy and complex. This workload meant that some people have had to wait longer for an outcome, and impacted the well-being of our staff.

We trust that our new Strategic Plan will help us work more efficiently


and have more impact, while also allowing us to remain a supportive and healthy workplace. Nevertheless, our increasing caseload pressures are a growing concern and we will be realistic about the resources and capacity available to us to deliver change as we embark on this new chapter in our service to the people of Wales.

Michelle Morris






Strategic Aim 1: Deliver justice

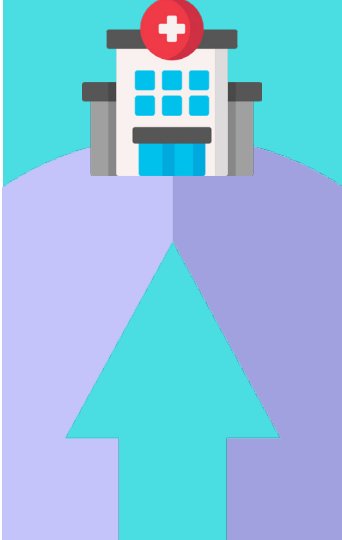
We received **2%** more new complaints about public services and Code of Conduct.




We had **2%** more new public service complaints:

-  37% were about healthcare
-  18% were about housing
-  18% were about complaint handling

We saw a **21%** increase in complaints about Health Boards.



We closed **10%** more complaints about public services and Code of Conduct.



We intervened (found that an organisation got things wrong and should put things right) in **19%** of complaints about public services...


... and 3 out of 4 times, we intervened early, without having to conduct a full investigation.



Organisations complied with **90%** of our recommendations due during the year.



We issued **1** Special Report about an organisation not complying with our recommendations.

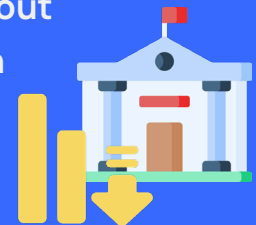


We received **4% fewer** new complaints about the Code of Conduct.



61% of these new complaints were about promotion of equality and respect.

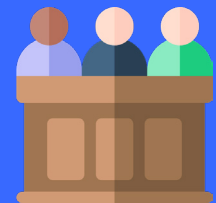
We received fewer new complaints about councillors at Town and Community Councils.



12

We made 12 referrals of Code of Conduct complaints made to the Adjudication Panel for Wales or local Standards Committees.

The Adjudication Panel for Wales and Standards Committees upheld and found breaches in **96%** of our referrals they considered in 2022/23.



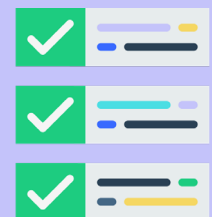
We upheld only **7%** of requests for review of our decisions, which gives us confidence that our process is sound.



We launched our new Service Quality process, through which we will look at how well we meet our service standards.



48% of people - and **95%** of those satisfied with the outcome of their complaint - were happy with our service.



Strategic Aim 2: Promote improvement

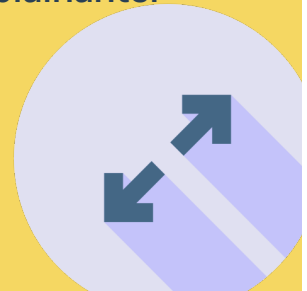
We delivered 183 training sessions on good complaint handling.



“Since the training I am trying to change my behaviour so that I listen to incoming calls with an open mind and not type up the log notes before they have finished speaking.

“My many thanks for the training sessions. They really did make me think very deeply about how we respond to clients.

We completed 2 extended investigations, when we are already investigating a problem and we extend the investigation to other issues or complainants.



We published 5 Public Interest Reports, about serious cases related to healthcare.



We completed public consultation on our next 'Own Initiative' investigation - which will look at carers' needs assessments.

For the fourth time, we published a casebook in which we highlight complaints where human rights or equality issues have either been raised as part of the complaint or have been central to our findings.



Strategic Aim 3: Use resources wisely

We had no median gender pay gap.



It cost us 16% less to consider each complaint this year.



We avoided 134kg of CO2 in emissions.



Cymraeg

A higher proportion of our staff told us that they had good or fluent Welsh language skills.

We developed our new Strategic Plan, which sets out 4 aims:

1. Delivering justice with a positive impact for people and public services
2. Increasing accessibility and inclusion
3. Increasing the impact of our proactive improvement work
4. Ensuring that we are a healthy, efficient and accountable organisation.





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Date: 17 August 2023

Cllr. Andrew Morgan
Rhondda Cynon Taf County Borough Council
By Email only: andrew.morgan2@rctcbc.gov.uk

Annual Letter 2022/23

Dear Councillor Morgan

I am pleased to provide you with the Annual letter (2022/23) for Rhondda Cynon Taf County Borough Council which deals with complaints relating to maladministration and service failure, complaints relating to alleged breaches of the Code of Conduct for Councillors and the actions being taken to improve public services.

This letter coincides with my Annual Report – “[A year of change – a year of challenge](#)” – a sentiment which will no doubt resonate with public bodies across Wales. My office has seen another increase in the number of people asking for our help – up 3% overall compared to the previous year, and my office now receives double the number of cases we received a decade ago.

In the last year, I have met with public bodies across Wales – speaking about our casework, our recommendations, and our proactive powers. The current climate will continue to provide challenges for public services, but I am grateful for the positive and productive way in which local authorities continue to engage with my office.

1,020 complaints were referred to us regarding local authorities last year - a reduction of 11% compared to the previous year. During this period, we intervened in (upheld, settled or resolved at an early stage) 13% of local authority complaints.

We received fewer Code of Conduct complaints in 22/23 compared to the previous year, relating to both Principal Councils and Town and Community Councils. My role is such that I do not make final findings about breaches of the Code of Conduct. Instead, where investigations find the most serious concerns, these are referred to the Standards Committee of the relevant local authority, or the

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Adjudication Panel for Wales. In 2022/23, the Ombudsman made 12 such referrals – a welcome reduction from 20 last year.

Supporting improvement of public services

Despite the challenges of last year, we have pushed forward with our proactive improvement work and launched a new Service Quality process to ensure we deliver the standards we expect.

Last year, we began work on our second wider Own Initiative investigation – this time looking into carers assessments within local authorities. This investigation will take place throughout the coming year, and we look forward to sharing our findings with all local authorities – not just those involved in the investigation.

The Complaints Standards Authority (CSA) continued its work with public bodies in Wales last year, with more than 50 public bodies now operating our model policy. We've also now provided more than 400 training sessions since we started, with local authorities, in September 2020.

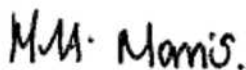
We continued our work to publish complaints statistics into a second year, with data now published twice a year. This data allows us to see information with greater context – for example, last year 9% of Rhondda Cynon Taf County Borough Council's complaints were referred to PSOW.

I would encourage Rhondda Cynon Taf County Borough Council, and specifically your Audit and Governance Committee, to use this data to better understand your performance on complaints and consider how well good complaints handling is embedded throughout the Authority.

Further to this letter can I ask that your Council takes the following actions:

- Present my Annual Letter to the Cabinet and to the Governance and Audit Committee at the next available opportunity and notify me of when these meetings will take place.
- Continue to engage with our Complaints Standards work, accessing training for your staff, fully implementing the model policy, and providing accurate and timely complaints data.
- Inform me of the outcome of the Council's considerations and proposed actions on the above matters at the earliest opportunity.

Yours sincerely,



Michelle Morris
Public Services Ombudsman

cc. Paul Mee, Chief Executive, Rhondda Cynon Taf County Borough Council.
By Email only: chiefexecutive@rctcbc.gov.uk



Factsheet

Appendix A - Complaints Received

Local Authority	Complaints Received	Received per 1000 residents
Blaenau Gwent County Borough Council	16	0.24
Bridgend County Borough Council	55	0.38
Caerphilly County Borough Council	49	0.28
Cardiff Council*	142	0.39
Carmarthenshire County Council	53	0.28
Ceredigion County Council	35	0.49
Conwy County Borough Council	31	0.27
Denbighshire County Council	32	0.33
Flintshire County Council	65	0.42
Cyngor Gwynedd	36	0.31
Isle of Anglesey County Council	25	0.36
Merthyr Tydfil County Borough Council	17	0.29
Monmouthshire County Council	23	0.25
Neath Port Talbot Council	39	0.27
Newport City Council	42	0.26
Pembrokeshire County Council	44	0.36
Powys County Council	38	0.29
Rhondda Cynon Taf County Borough Council**	54	0.23
Swansea Council	94	0.39
Torfaen County Borough Council	16	0.17
Vale of Glamorgan Council	49	0.37
Wrexham County Borough Council	65	0.48
Total	1020	0.33
* inc 9 Rent Smart Wales		
** inc 2 South Wales Parking Group		



Appendix B - Received by Subject

Rhondda Cynon Taf County Borough Council	Complaints Received	% share
Adult Social Services	4	7%
Benefits Administration	0	0%
Children's Social Services	11	20%
Community Facilities, Recreation and Leisure	0	0%
Complaints Handling	13	24%
Covid19	0	0%
Education	1	2%
Environment and Environmental Health	4	7%
Finance and Taxation	1	2%
Housing	7	13%
Licensing	0	0%
Planning and Building Control	5	9%
Roads and Transport	2	4%
Various Other	4	7%
Total	54	

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Appendix C - Complaint Outcomes
(* denotes intervention)

Rhondda Cynon Taf County Borough Council		% Share
Out of Jurisdiction	14	26%
Premature	16	30%
Other cases closed after initial consideration	22	41%
Early Resolution/ voluntary settlement*	2	4%
Discontinued	0	0%
Other Reports - Not Upheld	0	0%
Other Reports Upheld*	0	0%
Public Interest Reports*	0	0%
Special Interest Reports*	0	0%
Total	54	



Appendix D - Cases with PSOW Intervention

	No. of interventions	No. of closures	% of interventions
Blaenau Gwent County Borough Council	0	16	0%
Bridgend County Borough Council	5	57	9%
Caerphilly County Borough Council	6	52	12%
Cardiff Council	25	145	17%
Cardiff Council - Rent Smart Wales	1	9	11%
Carmarthenshire County Council	7	60	12%
Ceredigion County Council	13	44	30%
Conwy County Borough Council	5	35	14%
Denbighshire County Council	2	33	6%
Flintshire County Council	5	70	7%
Cyngor Gwynedd	5	33	15%
Isle of Anglesey County Council	5	25	20%
Merthyr Tydfil County Borough Council	1	18	6%
Monmouthshire County Council	1	22	5%
Neath Port Talbot Council	7	38	18%
Newport City Council	8	48	17%
Pembrokeshire County Council	3	45	7%
Powys County Council	8	44	18%
Rhondda Cynon Taf County Borough Council	2	54	4%
Rhondda Cynon Taf County Borough Council - South Wales Parking Group	0	2	0%
Swansea Council	10	99	10%
Torfaen County Borough Council	1	17	6%
Vale of Glamorgan Council	15	53	28%
Wrexham County Borough Council	6	67	9%
Total	141	1086	13%



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Appendix E - Code of Conduct Complaints

Rhondda Cynon Taf County Borough Council

Decision not to investigate	0
Discontinued	1
No evidence of breach	0
No action necessary	0
Refer to Adjudication Panel	0
Refer to Standards Committee	0
Total	1

Investigations

Page 85

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Appendix F - Town/Community Council Code of Complaints

Town/Community Council	Decision not to investigate	Investigations				Total
		Discontinued	No evidence of breach	No action necessary	Refer to Adjudication Panel	
Llanharan Community Council	0	0	0	0	0	0
Llantwit Fardre Community Council	4	0	0	0	0	4
Pontypridd Town Council	1	0	0	0	0	1
Taff's Well & Nantgarw Community Council	1	0	0	0	0	1
Ynysybwl & Coed-y-cwm Community Council	0	0	0	0	0	0



Information Sheet

Appendix A shows the number of complaints received by PSOW for all Local Authorities in 2022/23. These complaints are contextualised by the population of each authority.

Appendix B shows the categorisation of each complaint received, and what proportion of received complaints represents for the Local Authority.

Appendix C shows outcomes of the complaints which PSOW closed for the Local Authority in 2022/23. This table shows both the volume, and the proportion that each outcome represents for the Local Authority.

Appendix D shows Intervention Rates for all Local Authorities in 2022/23. An intervention is categorised by either an upheld complaint (either public interest or non-public interest), an early resolution, or a voluntary settlement.

Appendix E shows the outcomes of Code Of Conduct complaints closed by PSOW related to Local Authority in 2022/23. This table shows both the volume, and the proportion that each outcome represents for the Local Authority.

Appendix F shows the outcomes of Code of Conduct complaints closed by PSOW related to Town and Community Councils in the Local Authority's area in 2022/23. This table shows both the volume, and the proportion that each outcome represents for each Town or Community Council.

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RHONDDA CYNON TAF

RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

STANDARDS COMMITTEE

13 NOVEMBER 2023

PUBLIC SERVICES OMBUDSMAN FOR WALES – RECENT INVESTIGATION OUTCOMES – ‘OUR FINDINGS’

INFORMATION REPORT OF THE MONITORING OFFICER

1. PURPOSE OF REPORT

To consider the summary of investigation outcomes concerning alleged breaches of the Members’ Code of Conduct as published by the Public Services Ombudsman for Wales (PSOW) on the [‘our findings’](#) section of her website for the period 30th August 2023 – 31st October 2023.

2. RECOMMENDATION

- 2.1 To note and consider the contents of the summary of investigation outcomes concerning alleged breaches of the Members’ Code of Conduct, originally published by the Public Services Ombudsman for Wales on the ‘our findings’ section of her website and attached as Appendix 1 to the report (for the period 30th August 2023 – 31st October 2023).

3. BACKGROUND

- 3.1 The PSOW considers complaints that members of local authorities in Wales have breached the Code. There are four findings the PSOW can arrive at:

- (a) that there is no evidence of breach;
- (b) that no action needs to be taken in respect of the complaint;
- (c) that the matter be referred to the authority’s Monitoring Officer for consideration by the Standards Committee;
- (d) that the matter be referred to the President of the Adjudication Panel for Wales (the APW) for adjudication by a tribunal.

It should also be noted that occasionally an investigation may be discontinued, where circumstances change during the course of an investigation and it is considered that it would not be in the public interest to continue to investigate.

- 3.2 The 'Our Findings' section on the PSOW website includes a search tool to allow summaries of cases to be accessed by reference to the relevant organisation, matter type, dates, case reference numbers, or outcome. In terms of matter types, cases are broken down into the following categories:
- a. Integrity;
 - b. Promotion of Equality and Respect;
 - c. Disclosure or Registration of Interests;
 - d. Duty to Uphold the Law; and
 - e. Selflessness and Stewardship.
- 3.3 The appendix to this report contains a summary of those cases, originally published in '[Our Findings](#)' between the period 30th August 2023 – 31st October 2023.

LOCAL GOVERNMENT ACT 1972

AS AMENDED BY

THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

STANDARDS COMMITTEE

13 NOVEMBER 2023

REPORT OF MONITORING OFFICER

**PUBLIC SERVICES OMBUDSMAN FOR WALES – RECENT INVESTIGATION
OUTCOMES – ‘OUR FINDINGS’**

BACKGROUND PAPERS

Freestanding Matter

Contact: Mr. Andy Wilkins (Director of Legal Services & Monitoring Officer)

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SUMMARY OF PSOW INVESTIGATION OUTCOMES CONCERNING ALLEDGED MEMBERS' CODE OF CONDUCT BREACHES - 30TH AUGUST 2023 – 31ST OCTOBER 2023

Duty to uphold the law: Conwy County Borough Council

Report date - 07/09/2023

Outcome - No Action Necessary

The Ombudsman received a complaint that a Member ("the Member") of Conwy County Borough Council ("the Council") had breached the Code of Conduct ("the Code") by participating and voting in a Council meeting, which he attended virtually, while appearing to be driving.

The Ombudsman's investigation considered whether the Member had breached the Code by bringing his office or authority into disrepute.

Information was obtained from the Council, including minutes from the relevant Council meetings and videos of the incidents that led to the complaint. Information was also obtained from the Member and from the Police.

The video footage from the first Council meeting showed the Member to be driving a vehicle whilst participating in the meeting and the Member acknowledged that this was the case. The Member felt it important that he attend all meetings. Subsequent videos showed the car either to be stationary or that the Member was in the passenger seat.

The Police said it had not received a complaint and it would not now be in the public interest to investigate the matter. It is not the Ombudsman's role to determine whether the Member's actions would have amounted to criminal behaviour. However, the Police decision does not mean the Member's actions were considered acceptable.

The Ombudsman found that the actions of the Member were suggestive of a breach of the Code. The public rightly expect elected members to engage fully with Council business and to attend a meeting whilst driving a vehicle demonstrated poor judgement and had the potential to bring the Council into disrepute.

The Ombudsman considered that there was evidence of a single incident where the Member was driving and interacted with the meeting, and that it did not appear to be indicative of repeated behaviour. That subsequent videos showed the Member to be in the passenger seat or in a stationary vehicle suggests the Member had not repeated the behaviour and has learned from this complaint.

The Ombudsman found that although the Member's actions were suggestive of a breach of the Code, that he had not repeated the behaviour since, and the lack of a criminal investigation meant it would not be in the public interest to take further action.

The Ombudsman found that, under Section 69(4)(b) of the Local Government Act 2000, no action needed to be taken in respect of the matters investigated.

This decision will be held on record and will be taken into account if there is any future similar behaviour by the Member.



RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

MUNICIPAL YEAR 2023 - 2024

STANDARDS COMMITTEE

13 NOVEMBER 2023

APPLICATION FOR DISPENSATION – COUNTY BOROUGH COUNCILLOR M. POWELL

REPORT OF THE MONITORING OFFICER

1. PURPOSE OF REPORT

To enable the Committee to decide whether to grant a dispensation to County Borough Councillor Michael Powell to speak and vote on all matters relating to the Children's Services department (within the Community and Children's Services Group), save for any specific matters that directly affect his wife who is employed by the Council in the Children's Services department as a Contact Worker, with such dispensation being reviewed on an annual basis by the Standards Committee.

2. RECOMMENDATION

- 2.1 To consider granting County Borough Councillor Michael Powell a dispensation to speak and vote on all matters relating to the Children's Services department (within the Community and Children's Group), save for any specific matters that directly affect his wife, who is employed by the Council in the Children's Services department as a Contact Worker, with such dispensation being reviewed by the Standards Committee on an annual basis.

3. BACKGROUND

- 3.1 Paragraph 14 of the Code of Conduct sets out the procedures to be followed regarding participation in meetings when a Member has declared a personal and prejudicial interest.
- 3.2 However the participation by a Member in any business which is prohibited by Paragraph 14 is not a failure to comply with the Code if the Member has acted

in accordance with a dispensation from the prohibition granted by the Standards Committee in accordance with regulations.

- 3.3 The relevant regulations are the Standards Committee (Grant of Dispensations) (Wales) Regulations 2001 (the 'Regulations'). The Regulations set out the grounds on which dispensations may be granted.
- 3.4 County Borough Councillor Michael Powell's wife works in the Children's Services department as a Contact Worker. Councillor Powell seeks a dispensation to speak and vote on all matters relating to the Children's Services department, save for any specific matters that directly affect his wife. Reference to matters 'directly affecting his wife' in this context means matters which do not directly financially advantage or disadvantage, or give other direct benefit or dis-benefit to her. In his application Councillor Powell has stated his wife is not in a decision making position.
- 3.5 Any dispensation awarded cannot be used if the matter under consideration would confer a greater benefit on his wife than on other tax payers, ratepayers or inhabitants of the Council's area, or be such that a member of the public might reasonably conclude it would significantly affect his ability to act purely on the merits of the case and in the public interest if Councillor Powell were to take part in the discussion.
- 3.6 The ground for granting a dispensation under the aforementioned regulations under which Councillor Powell has applied for his dispensation are as follows:

Ground:

(c) the participation of the member in the business to which the interest relates is justified by the member's particular role or expertise;

- 3.7 It is recommended the Committee consider granting Councillor Michael Powell a dispensation to speak and vote on all matters relating to the Children's Services department, save for any specific matters that directly affect his wife, who is employed by the Council in the Children's Services department as a Contact Worker, with such dispensation being reviewed on an annual basis on the ground that the participation of the Member in the business to which the interest relates is justified by the Member's particular role or expertise as Leader of the RCT Independents Political Group.

RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

LIST OF BACKGROUND PAPERS

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13 NOVEMBER 2023

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